11–2–95
Vol. 60 No. 212
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Federal Register

Thursday
November 2, 1995

Briefings on How To Use the Federal Register
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FOR: Any person who uses the Federal Register and Code of Federal Regulations.

WHO: Sponsored by the Office of the Federal Register.

WHAT: Free public briefings (approximately 3 hours) to present:

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WHY: To provide the public with access to information necessary to research Federal agency regulations which directly affect them. There will be no discussion of specific agency regulations.

WASHINGTON, DC

[Three Sessions]

WHEN:	November 14 at 9:00 am November 28 at 9:00 am December 5 at 9:00 am
WHERE:	Office of the Federal Register Conference Room, 800 North Capitol Street NW., Washington, DC (3 blocks north of Union Station Metro)
RESERVATIONS:	202–523–4538

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Reader Aids
Additional information, including a list of public laws, telephone numbers, and finding aids, appears in the Reader Aids section at the end of this issue.

Electronic Bulletin Board
Free Electronic Bulletin Board service for Public Law numbers, Federal Register finding aids, and a list of documents on public inspection is available on 202–275–1538 or 275–0920.

CFR PARTS AFFECTED IN THIS ISSUE

A cumulative list of the parts affected this month can be found in the Reader Aids section at the end of this issue.

Federal Register
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Presidential Documents

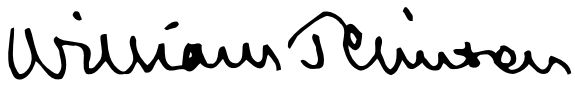
Title 3—

The President

Notice of October 31, 1995

Continuation of Iran Emergency

On November 14, 1979, by Executive Order No. 12170, the President declared a national emergency to deal with the threat to the national security, foreign policy, and economy of the United States constituted by the situation in Iran. Notices of the continuation of this national emergency have been transmitted annually by the President to the Congress and the Federal Register. The most recent notice appeared in the Federal Register on November 1, 1994. Because our relations with Iran have not yet returned to normal, and the process of implementing the January 19, 1981, agreements with Iran is still underway, the national emergency declared on November 14, 1979, must continue in effect beyond November 14, 1995. Therefore, in accordance with section 202(d) of the National Emergencies Act (50 U.S.C. 1622(d)), I am continuing the national emergency with respect to Iran. This notice shall be published in the Federal Register and transmitted to the Congress.



THE WHITE HOUSE,
October 31, 1995.

[FR Doc. 95–27370
Filed 10–31–95; 3:02 pm]
Billing code 3195–01–P

Rules and Regulations

Federal Register
Vol. 60, No. 212
Thursday, November 2, 1995

OFFICE OF PERSONNEL MANAGEMENT

5 CFR Part 213

RIN 3206–AH18

Revocation of Schedule A Authority 213.3102(cc)

AGENCY: Office of Personnel Management.

ACTION: Final rule.

SUMMARY: The Office of Personnel Management (OPM) is eliminating the regulation establishing Schedule A authority 213.3102(cc) because it will be revoked. Under the terms of this authority, its Schedule A positions are filled by persons identified as Interchange Executives by the President's Commission on Executive Exchange. This Commission no longer exists.

EFFECTIVE DATE: November 2, 1995.

FOR FURTHER INFORMATION CONTACT: Armond A. Grant, (202) 606–0950.

SUPPLEMENTARY INFORMATION: E.O. 12760 abolished the President's Commission of Executive Exchange and terminated its functions. Since new appointments can no longer be made and no appointments under this authority currently remain, the authority is not needed and will be revoked.

Waiver of Notice of Proposed Rulemaking and 30-day Delay of Effective Date

Under 5 U.S.C. 553(b)(3)(B) and (d)(3), I find that good cause exists for waiving the general notice of proposed rulemaking and for making this amendment effective in less than 30 days. That is because this amendment is solely for the purpose of deleting an outdated regulation.

Regulatory Flexibility Act

I certify that these regulations will not have a significant economic impact on a substantial number of small entities (including small businesses, small organizational units, and small governmental jurisdictions) because they apply only to Federal employees.

List of Subjects in 5 CFR Part 213

Government employees, reporting and recordkeeping requirements.

U.S. Office of Personnel Management.
James B. King,
Director.

Accordingly, OPM is amending 5 CFR part 213 as follows:

PART 213—EXCEPTED SERVICE

1. The authority citation for part 213 continues to read as follows:

Authority: 5 U.S.C. 3301 and 3302, E.O. 10577, 3 CFR 1954–1958 Comp., p. 218; section 213.101 also issued under 5 U.S.C. 2103; section 213.3102 also issued under 5 U.S.C. 3301, 3302, 3307, 8337(h) and 8457; E.O. 12364, 47 FR 22931, 3 CFR 1982 Comp., p. 185.

§ 213.3102 [Amended]

2. In 213.3102, paragraph (cc) is removed and reserved.

[FR Doc. 95–27160 Filed 11–1–95; 8:45 am]
BILLING CODE 6325–01–M

SMALL BUSINESS ADMINISTRATION

13 CFR Part 122

Business Loans; Microloans

AGENCY: Small Business Administration (SBA).

ACTION: Final rule.

SUMMARY: Under this final rule, SBA is implementing certain provisions of the ''Small Business Administration Reauthorization and Amendments Act of 1994'', enacted on October 22, 1994, which are relevant to the SBA microloan financing program (Program). On a pilot basis, the rule authorizes SBA to guarantee up to 100 percent of loans made to intermediary lenders. It adds native American tribal governments as eligible intermediaries in the Program, authorizes SBA to provide additional grant assistance to an intermediary which by its lending assists residents in economically distressed areas, and extends the sunset date of the Program for an additional fiscal year.

EFFECTIVE DATE: This rule is effective November 2, 1995.

FOR FURTHER INFORMATION CONTACT: John R. Cox, 202/205–6490.

SUPPLEMENTARY INFORMATION: On January 24, 1995, SBA published in the Federal Register (60 FR 4574) a notice of proposed rulemaking with respect to amendments made by Pub. L. 103–403, enacted on October 22, 1994 (1994 legislation), to subsection 7(m) of the Act (15 U.S.C. 636(m)), relating to the Program. SBA received four favorable comments in response to the proposed rule. Accordingly, SBA is promulgating this final rule basically as proposed.

Consistent with section 202 of the 1994 legislation, section 122.61–2 of SBA's regulations (13 CFR 122.61–2) is amended by including in the definition of an intermediary eligible to participate in the Program as a microloan lender an agency or nonprofit entity established by a native American tribal government. Currently, only private, nonprofit entities or quasi-governmental entities can be microlenders.

Consistent with section 203 of the 1994 legislation, section 122.61–1 of SBA's regulations is amended to extend the sunset date for the Program an additional year, to October 1, 1997.

Consistent with section 206 of the 1994 legislation, section 122.61–6 of SBA's regulations is amended to increase the aggregate maximum amount of SBA lending available to an intermediary during the intermediary's participation in the Program. The previous limit was $1,250,000; the new aggregate maximum is $2,500,000.

Consistent with section 207 of the 1994 legislation, section 122.61–9 of SBA's regulations is amended to authorize (but not require) an intermediary to expend up to fifteen percent of any grant funds provided to it by the SBA for the provision of information and technical assistance to small businesses which are prospective borrowers. This final rule recognizes that intermediaries hold outreach seminars, perform screening analyses, and provide other assistance for prospective borrowers. It encourages them to continue these programs and to use their technical assistance grants efficiently and cost effectively.

SBA presently ensures that at least one-half of its intermediaries provide

microloans to small businesses in rural areas. Consistent with section 205 of the 1994 legislation, section 122.61–3 of SBA's regulations is amended so that SBA now must select entities that will ensure availability of loans for small businesses in all industries located throughout the lender's jurisdiction in both rural and urban areas. The SBA is no longer required to meet numerical requirements based on intended borrowers in selecting entities to participate as intermediaries in the Program, but it will consider whether a proposed intermediary would provide assistance to a variety of industries.

Under SBA's present rules, an intermediary seeking to qualify for an SBA grant must contribute matching funds equal to twenty-five percent of the amount of the grant. Consistent with section 208(a)(1) of the 1994 legislation, section 122.61–9 of SBA's regulations is amended to provide that this twenty-five percent requirement is inapplicable to an intermediary which provides more than half of its loans to small businesses located in or owned by residents of an economically distressed area. Thus, if an intermediary would make sixty percent of its loans in an economically distressed geographic area, it would not have to provide a twenty-five percent match to an SBA grant.

Under current rules, each intermediary can receive an SBA grant equal to twenty-five percent of the outstanding balance of its loans from SBA. Consistent with section 208(a)(2) of the 1994 legislation, section 122.61–9 of SBA's regulations is amended to provide that an intermediary can receive an SBA grant of an additional five percent (which it is not required to match) if it will provide no less than twenty-five percent of its loans to small businesses located in or owned by residents of an economically distressed area.

Consistent with section 208(b) of the 1994 legislation, section 122.61–2 of SBA's regulations is amended to define ''economically distressed area'' to mean a county or equivalent division of local government in which not less than forty percent of the residents have an annual income that is at or below the poverty level. SBA will obtain this information from the Bureau of the Census.

Consistent with section 201 of the 1994 legislation, new section 122.61–13 of SBA's regulations implements a microloan financing pilot in which SBA can guarantee no less than ninety and no more than one hundred percent of a loan made to an intermediary by a for-profit or non-profit entity or by an alliance of such entities. This guaranty authority by SBA terminates on September 30, 1997. Under this pilot, SBA will guarantee loans to no more than ten intermediaries in urban areas and ten in rural areas. The loans will have a maturity of ten years, with interest calculated as set forth in section 122.61–6 of SBA's regulations (13 CFR 122.61–6). During the first year of the loan, interest accrues, but the intermediary will not be required to repay principal or interest. During the second through fifth years of the loan, the intermediary pays only interest. During the sixth through tenth years of the loan, the intermediary must make interest payments and fully amortize the principal. There are no balloon payments.

Compliance with Executive Orders 12612, 12778 and 12866, the Regulatory Flexibility Act, 5 U.S.C. 601, *et seq.* and the Paperwork Reduction Act, 44 U.S.C. Ch. 35.

For purposes of the Regulatory Flexibility Act, 5 U.S.C. 601 *et seq.*, SBA certifies that this final rule does not have a significant economic impact on a substantial number of small entities.

SBA certifies that this final rule does not constitute a significant regulatory action for the purposes of Executive Order 12866, since it is not likely to result in an annual effect on the economy of $100 million or more.

SBA certifies that this final rule does not impose additional reporting or recordkeeping requirements which would be subject to the Paperwork Reduction Act, 44 U.S.C. Chapter 35, and does not have federalism implications warranting the preparation of a Federalism Assessment in accordance with Executive Order 12612.

For purposes of Executive Order 12778, SBA certifies that this final rule is drafted, to the extent practicable, in accordance with the standards set forth in section 2 of that Order.

(Catalog of Federal Domestic Assistance Programs, No. 59.012)

List of Subjects in 13 CFR Part 122

Loan programs—business, Small businesses.

Accordingly, pursuant to the authority contained in section 5(b)(6) of the Small Business Act (15 U.S.C. 634(b)(6)), SBA amends part 122, chapter I, title 13, Code of Federal Regulations, as follows:

PART 122—BUSINESS LOANS

1. The authority citation for Part 122 continues to read as follows:

Authority: 15 U.S.C. 634(b)(6), 636(a), 636(m).

2. Section 122.61–1(a) is amended by revising the last sentence to read as follows:

§ 122.61–1 Policy.

(a) *Program*. * * * This Microloan Demonstration Program terminates on October 1, 1997.

* * * * *

3. Section 122.61–2 is amended by republishing (d) introductory text, by removing the ''or'' at the end of paragraph (d)(3), by removing the period at the end of paragraph (d)(4) and adding ''; or'' in its place, and adding new paragraphs (d)(5) and (h) to read as follows:

§ 122.61–2 Definitions.

* * * * *

(d) *Intermediary* means: * * *

(5) An agency of or a nonprofit entity established by a Native American Tribal Government.

* * * * *

(h) *Economically distressed area* means a county or equivalent division of local government of a state in which, according to the most recent data available from the United States Bureau of the Census, not less than 40 percent of residents have an annual income that is at or below the poverty level.

4. Section 122.61–3 is amended by adding a new sentence at the end of paragraph (a) to read as follows:

§ 122.61–3 Participation of intermediary.

(a) *Eligibility*. * * * In evaluating applications to become an intermediary, SBA shall select intermediaries that will ensure appropriate availability of loans for small business concerns in all industries located throughout each state, in both urban and in rural areas.

* * * * *

5. Section 122.61–6 is amended by revising paragraph (e) to read as follows:

§ 122.61–6 Conditions on SBA loan to intermediary.

* * *

(e) *Loan limits by SBA*. No loan shall be made to an intermediary by SBA under this program if the total amount outstanding and committed (excluding outstanding grants) to the intermediary (and its affiliates, if any) from the business loan and investment fund established under section 4(c) of the Act would, as a result of such loan, exceed $750,000 in the first year of the intermediary's participation in the program, and $2,500,000 in the

remaining years of the intermediary's participation in the program.

* * * * *

6. Section 122.61–9 is amended by adding a new third sentence in paragraph (a), by revising paragraph (b)(1), and by adding a new sentence at the end of paragraph (b)(2) to read as follows:

§ 122.61–9 SBA grant to intermediary for marketing, management, and technical assistance.

(a) *General.* * * * Each intermediary is authorized to expend up to 15% of any SBA grant funds to provide information and technical assistance to small business concerns that are prospective borrowers under this program. * * *

(b) *Amount of grant.* (1) Subject to the requirement of paragraph (b)(2) of this section, and the availability of appropriations, each intermediary under this program shall be eligible to receive a grant equal to 25% of the outstanding balance of loans made to it by SBA. If an intermediary provides no less than 25% of its loans to small business concerns located in or owned by one or more residents of an economically distressed area, it shall be eligible to receive an additional grant from SBA equal to 5% of the outstanding balance of SBA loans made to the intermediary (with no obligation to match this additional amount).

(2) * * * This requirement for an intermediary contribution is inapplicable if the intermediary provides at least 50% of its loans to small business concerns located in or owned by one or more residents of an economically distressed area.

* * * * *

7. A new § 122.61–13 is added to read as follows:

§ 122.61–13 SBA guaranteed loans to intermediaries.

(a) *General.* For up to 10 intermediaries in urban areas and 10 intermediaries in rural areas, SBA may guarantee not less than 90 percent nor more than 100 percent of a loan made by a for-profit or non-profit entity or by an alliance of such entities.

(b) *Maturity and repayment.* Any SBA guaranteed loan made to an intermediary under this section shall have a maturity of 10 years. During the first year of the loan, interest shall accrue, but the intermediary shall not be required to repay any interest or principal. During the second through fifth years of the loan, the intermediary shall pay interest only. During the sixth through tenth years of the loan, the intermediary shall make interest payments and fully amortize the principal.

(c) *Interest rate.* The interest rate on an SBA guaranteed loan to an intermediary shall be calculated as set forth in § 122.61–6.

(d) *Termination of SBA authority to guarantee.* The authority of SBA to guarantee loans to intermediaries under this § 122.61–13 shall terminate on September 30, 1997.

Dated: July 26, 1995.

Philip Lader,

Administrator.

[FR Doc. 95–27155 Filed 11–1–95; 8:45 am]

BILLING CODE 8025–01–U

DEPARTMENT OF TRANSPORTATION

Federal Aviation Administration

14 CFR Part 71

[Airspace Docket No. 95–ANM–18]

Proposed Establishment of Class E Airspace; Baker, Montana

AGENCY: Federal Aviation Administration (FAA), DOT.

ACTION: Final rule.

SUMMARY: This action establishes the Baker, Montana, Class E airspace. This action is necessary to accommodate a new instrument approach procedure at Baker Municipal Airport, Baker, Montana.

EFFECTIVE DATE: 0901 UTC, January 4, 1996.

FOR FURTHER INFORMATION CONTACT: James C. Frala, System Management Branch, ANM–535/A, Federal Aviation Administration, Docket No.95–ANM–18, 1601 Lind Avenue S.W., Renton, Washington 98055–4056; telephone number: (206) 227–2535.

SUPPLEMENTARY INFORMATION:

History

On September 13, 1995, the FAA proposed to amend part 71 of the Federal Aviation Regulations (14 CFR part 71) to establish Class E airspace at Baker, Montana, to accommodate a new instrument approach procedure at Baker Municipal Airport (60 FR 47503). Interested parties were invited to participate in the rulemaking proceeding by submitting written comments on the proposal. No comments were received.

This action is the same as the proposal except for an error (corrected herein) in the location of the Bowman Municipal Airport in Montana rather than North Dakota. The coordinates for this airspace docket are based on North American Datum 83. Class E airspace areas extending upward from 700 feet or more above the surface of the earth are published in paragraph 6005 of FAA Order 7400.9C dated August 17, 1995, and effective September 16, 1995, which is incorporated by reference in 14 CFR 71.1. The Class E airspace listed in this document will be published subsequently in the Order.

The Rule

This amendment to part 71 of Federal Aviation Regulations establishes Class E airspace at Baker, Montana. The FAA has determined that this regulation only involves an established body of technical regulations for which frequent and routine amendments are necessary to keep them operationally current. It, therefore, (1) is not a ''significant regulatory action'' under Executive Order 12866; (2) is not a ''significant rule'' under DOT Regulatory Policies and Procedures (44 FR 11034; February 26, 1979); and (3) does not warrant preparation of a regulatory evaluation as the anticipated impact is so minimal. Since this is a routine matter that will only affect air traffic procedures and air navigation, it is certified that this rule will not have a significant economic impact on a substantial number of small entities under the criteria of the Regulatory Flexibility Act.

List of Subjects in 14 CFR Part 71

Airspace, Incorporation by reference, Navigation (air).

Adoption of the Amendment

In consideration of the foregoing, the FAA amends 14 CFR part 71 as follows:

PART 71—[AMENDED]

1. The authority citation for 14 CFR part 71 continues to read as follows:

Authority: 49 U.S.C. 106(g), 40103, 40113, 40120; E.O. 10854, 24 FR 9565, 3 CFR 1959–1963 Comp., p. 389; 14 CFR 11.69

§ 71.1 [Amended]

2. The incorporation by reference in 14 CFR 71.1 of the Federal Aviation Administration Order 7400.9C, Airspace Designations and Reporting Points, dated August 17, 1995, and effective September 16, 1995, is amended as follows:

Paragraph 6005 Class E airspace areas extending upward from 700 feet or more above the surface of the earth

* * * * *

ANM MT E5 Baker, MT [New]

Baker Municipal Airport, MT
(Lat. 46°20′52″ N, long. 104°15′34″ W)

That airspace extending upward from 700 feet above the surface within a 8.9-mile

radius of the Baker Municipal Airport; that airspace extending upward from 1,200 feet above the surface bounded by a line beginning at lat. 46°29′00″ N, long. 104°45′00″ W; to lat. 46°30′30″ N, long. 104°31′00″ W; to lat. 46°37′00″ N, long. 103°59′40″ W; to lat. 46°37′55″ N, long. 103°53′45″ W; to lat. 46°25′45″ N, long. 103°37′30″ W; to lat. 46°17′30″ N, long. 103°48′15″ W; to lat. 45°40′00″ N, long. 103°00′50″ W; to lat. 45°35′30″ N, long. 103°01′45″ W; to lat. 45°49′30″ N, long. 103°37′30″ W; to lat. 45°53′50″ N, long. 103°34′30″ W; to lat. 46°10′50″ N, long. 103°56′00″ W; to lat. 46°04′20″ N, long. 104°10′45″ W; to the point of beginning; excluding that portion within the Bowman Municipal Airport, ND, 1,200-foot Class E airspace area.

* * * * *

Issued in Seattle, Washington, on October 19, 1995.

Richard E. Prang,

Acting Assistant Manager, Air Traffic Division, Northwest Mountain Region.

[FR Doc. 95–27226 Filed 11–1–95; 8:45 am]

BILLING CODE 4910–13–M

14 CFR Part 71

[Airspace Docket No. 94–ASW–1]

Alteration of VOR Federal Airway V–234

AGENCY: Federal Aviation Administration (FAA), DOT.

ACTION: Final rule.

SUMMARY: This rule will realign Federal Airway V–234 between Dalhart, TX, and Anton Chico, NM. Currently, V–234 has a dogleg between those two points and this action realigns that segment as a direct route. V–234, when originally established as a nonradar route, required the dogleg to provide lateral separation from other aircraft on adjacent airways. Radar coverage has been established to cover this segment of the airway, and the necessity for the dogleg no longer exists. This action will be beneficial to the users of the air traffic control (ATC) system.

EFFECTIVE DATE: 0901 UTC, January 4, 1996.

FOR FURTHER INFORMATION CONTACT: William C. Nelson, Airspace and Obstruction Evaluation Branch (ATP–240), Airspace-Rules and Aeronautical Information Division, Air Traffic Rules and Procedures Service, Federal Aviation Administration, 800 Independence Avenue, SW., Washington, DC 20591; telephone: (202) 267–9295.

SUPPLEMENTARY INFORMATION:

History

On May 20, 1994, the FAA proposed to amend part 71 of the Federal Aviation Regulations (14 CFR part 71) to realign Federal Airway V–234 between Dalhart, TX, and Anton Chico, NM, (59 FR 26465). Interested parties were invited to participate in this rulemaking proceeding by submitting written comments on the proposal to the FAA. No comments objecting to the proposal were received. Except for editorial changes, this amendment is the same as that proposed in the notice. Domestic VOR Federal airways are published in paragraph 6010(a) of FAA Order 7400.9C dated August 17, 1995, and effective September 16, 1995, which is incorporated by reference in 14 CFR 71.1. The airway listed in this document will be published subsequently in the Order.

The Rule

This amendment to part 71 of the Federal Aviation Regulations realigns Federal Airway V–234 between Dalhart, TX, and Anton Chico, NM. Currently, V–234 has a dogleg between those two points and this action will realign that segment as a direct route. V–234 was originally established as a nonradar route, and required the dogleg to provide lateral separation from other aircraft on adjacent airways. Since this area is now covered by radar, the dogleg is no longer necessary. This action will be beneficial to the users of the ATC system.

The FAA has determined that this regulation only involves an established body of technical regulations for which frequent and routine amendments are necessary to keep them operationally current. It, therefore—(1) is not a ''significant regulatory action'' under Executive Order 12866; (2) is not a ''significant rule'' under DOT Regulatory Policies and Procedures (44 FR 11034; February 26, 1979); and (3) does not warrant preparation of a regulatory evaluation as the anticipated impact is so minimal. Since this is a routine matter that will only affect air traffic procedures and air navigation, it is certified that this rule will not have a significant economic impact on a substantial number of small entities under the criteria of the Regulatory Flexibility Act.

List of Subjects in 14 CFR Part 71

Airspace, Incorporation by reference, Navigation (air).

Adoption of the Amendment

In consideration of the foregoing, the Federal Aviation Administration amends 14 CFR part 71 as follows:

PART 71—[AMENDED]

1. The authority citation for part 71 continues to read as follows:

Authority: 49 U.S.C. 106(g), 40103, 40113, 40120; E.O. 10854, 24 FR 9565, 3 CFR, 1959–1963 Comp., p. 389; 14 CFR 11.69.

§ 71.1 [Amended]

2. The incorporation by reference in 14 CFR 71.1 of the Federal Aviation Administration Order 7400.9C, Airspace Designations and Reporting Points, dated August 17, 1995, and effective September 16, 1995, is amended as follows:

Paragraph 6010(a)—Domestic VOR Federal Airways

* * * * *

V–234 [Revised]

From St. Johns, AZ, via INT St. Johns 085° and Albuquerque, NM, 229° radials; Albuquerque; INT Albuquerque 103° and Anton Chico, NM, 249° radials; Anton Chico; Dalhart, TX; Liberal, KS; 32 miles, 74 miles, 65 MSL, Hutchinson, KS; Emporia, KS; Butler, MO; Vichy, MO; INT Vichy 091° and Centralia, IL, 253° radials; Centralia. The airspace at and above 8,000 feet MSL between Vichy and the INT of Vichy 091° and St. Louis, MO, 171° radials is excluded during the time that the Meramec MOA is activated by NOTAM.

* * * * *

Issued in Washington, DC, on October 26, 1995.

Harold W. Becker,

Manager, Airspace-Rules and Aeronautical Information Division.

[FR Doc. 95–27227 Filed 11–1–95; 8:45 am]

BILLING CODE 4910–13–P

14 CFR Part 108

[Docket No. 26763; Amendment No. 108–12]

RIN 2120–AE14

Unescorted Access Privilege

AGENCY: Federal Aviation Administration (FAA), DOT.

ACTION: Final rule; correction.

SUMMARY: This document contains a minor correction to a final rule published Tuesday, October 3, 1995 (60 FR 51854). This final rule requires airport operators and air carriers to conduct an employment investigation and disqualify individuals convicted of certain enumerated crimes from having, or being able to authorize others to have, unescorted access privileges to a

security identification display area of a U.S. airport.

EFFECTIVE DATE: January 31, 1996.

FOR FURTHER INFORMATION CONTACT: Robert Cammaroto (202–267–7723) or Linda Valencia (202–267–8222).

SUPPLEMENTARY INFORMATION:

Need for Correction

As published, the final regulations contain a minor error which may prove to be misleading and, therefore, in need of correction.

Correction of Publication

Accordingly, the publication, on Tuesday, October 3, 1995, of the Unescorted Access Privilege final rule (FR Doc. 95–24546) is corrected as follows:

§ 108.33 [Corrected]

On page 51869, in the third column, in § 108.33, paragraph (a)(2), lines 8 and 9, the words ''in paragraphs (b)(2) (i) through (xxv) of this section'' are corrected to read ''in paragraphs (a)(2) (i) through (xxv) of this section''.

Donald P. Byrne,

Assistant Chief Counsel, Regulations Division.

[FR Doc. 95–27228 Filed 11–1–95; 8:45 am]

BILLING CODE 4910–13–M

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Food and Drug Administration

21 CFR Parts 510, 520, 522, 524, 526, 529, and 558

Animal Drugs, Feeds, and Related Products; Change of Sponsor

AGENCY: Food and Drug Administration, HHS.

ACTION: Final rule.

SUMMARY: The Food and Drug Administration (FDA) is amending the animal drug regulations to reflect the change of sponsor for 62 approved new animal drug applications (NADA's) from SmithKline Beecham Animal Health to Pfizer, Inc.

EFFECTIVE DATE: November 2, 1995.

FOR FURTHER INFORMATION CONTACT: Benjamin A. Puyot, Center for Veterinary Medicine (HFV–130), Food and Drug Administration, 7500 Standish Pl., Rockville, MD 20855, 301–594–1646.

SUPPLEMENTARY INFORMATION: SmithKline Beecham Animal Health, 1600 Paoli Pike, West Chester, PA 19360, has informed FDA that it has transferred the ownership of, and all rights and interests in, the following approved NADA's to Pfizer, Inc., 235 East 42d St., New York, NY 10017.

NADA no.	Drug and species
012–437	Trimeprazine Tartrate Prednisolone (Temaril-p) Tablets–canine
013–201	Prochlorperazine Maleate, Isopropamide Iodide (Darbazine) Spansule Caps No.1–dog
014–366	Sodium Liothyronine (Cytobin) Tablets–dog
015–102	Sulfadimethoxine (Albon Tablets) Antibacterial–dog and cat
015–147	Prochlorperazine Edisylate, Isopropamide Iodide (Darbazine) Injectable–dog and cat
031–205	Sulfadimethoxine (Albon Agribon 12.5% Drinking Water Solution) Antibacterial–chicken, turkey, and cattle
031–715	Sulfadimethoxine (Albon Agribon Bolus) Antibacterial–cattle
031–914	Prochlorperazine, Isopropamide Iodide (Neo-darbazine) Spansule–dog
032–704	Poloxalene (Bloat Guard) Premix Top Dressing–cattle
033–760	Poloxalene (Bloat Guard) Drench–cattle
035–161	Trimeprazine Tartrate Prednisolone (Temaril-p) Spansules–dog
038–281	Poloxalene (Bloat Guard) Liquid Feed–cattle
039–729	Poloxalene (Therabloat) Drench–cattle
041–245	Sulfadimethoxine (Albon Injection-40%) Antibacterial–dog, cat, horse, and cattle
043–785	Sulfadimethoxine (Albon Oral Suspension 5%) Antibacterial–dog and cat
046–285	Sulfadimethoxine (Albon Soluble Powder) Antibacterial–cattle, chicken, and turkey
055–042	Ampicillin Trihydrate (Ampi-tabs) Tablets–dog
055–069	Benzathine Cloxacillin (Orbenin-dc) Intramammary Infusion–cattle
055–070	Sodium Cloxacillin (Dariclox) Intramammary Infusion Lactating–cattle
055–074	Ampicillin Trihydrate (Ampi-bol) Bolus–calves
055–078	Amoxicillin (Amoxi-tabs) 50/100/150/200/400 milligrams (mg) Tablets–dog
055–079	Ampicillin Trihydrate (Ampi-ject) Injectable–dog
055–080	Amoxicillin (Amoxi-doser) Oral Suspension–swine
055–081	Amoxicillin (Amoxi-tabs) 50/100 mg Tablets–cat
055–084	Ampicillin Sodium (Amp-equine) Injectable–horse
055–085	Amoxicillin Trihydrate (Amoxi-drop) Oral Suspension–dog and cat
055–087	Amoxicillin Trihydrate (Amoxi-bol) Bolus–calves
055–088	Amoxicillin Trihydrate (Amoxi-sol) Oral Soluble Powder–calves
055–089	Amoxicillin Trihydrate (Amoxi-inject) Injectable–cattle
055–091	Amoxicillin Trihydrate (Amoxi-inject) Injectable–dog and cat
055–095	Ticarcillin Disodium (Ticillin) Injectable–horse
055–099	Amoxicillin Trihydrate Clavulanate Potassium (Clavamox Tablets)–dog and cat
055–100	Amoxicillin Trihydrate (Amoxi-mast) Intramammary Infusion–cattle
055–101	Amoxicillin Trihydrate Clavulanate Potassium (Clavamox) Drops Oral Suspension–dog and cat
091–467	Virginiamycin (Stafac 10, 20, 50, 500) Premix–poultry, swine, and turkey
091–513	Virginiamycin (Stafac 10/22 20/44 50/110 500) Premix–poultry, swine
093–107	Sulfadimethoxine (Albon Sr Sustained Release Bolus)–cattle

NADA no.	Drug and species
098–431	Tylan 10 (Tylosin) Premix–swine
100–929	Sulfadimethoxine Ormetoprim (Primor Tablets) 100/20, 200/40, 500/100, 1,000/200 mg–dog
104–493	Diethylcarbamazine Citrate (Filaribits) Tablets–dog
108–687	Dexamethasone (Pet-derm III) Tablets–dog
109–722	Oxibendazole (Anthelcide Eq Equipar) Suspension Anthelmintic–horse
110–048	Albendazole (Valbazen 11.36%) Drench Suspension Cattle Anthelmintic–cattle
111–369	Dexamethasone Sterile Solution (Dexamethasone) Injectable–dog, cat, and horse
120–724	Virginiamycin Monensin Roxarsone (Stafac Coban 3-nitro)–poultry
121–042	Oxibendazole (Anthelcide Eq) Paste–horse
122–481	Virginiamycin Monensin (Stafac 10, 44, 110, 500 Coban 45) Premix–poultry
122–608	Virginiamycin Lasalocid (Stafac 22, 44, 110, 500 Avatec) Premix–poultry
122–822	Virginiamycin Amprolium plus Ethopabate (Stafac 22, 44, 110, 500 Amprol) Premix–chicken
125–961	Sodium Chloride, K Phosphate, K Citrate, Citric Acid, Glycine, Dextrose Powder–calves
128–070	Albendazole (Valbazen) Paste Anthelmintic–cattle
128–517	Diethylcarbamazine Citrate (Pet-dec) Tablet–dog
136–483	Diethylcarbamazine Citrate, Oxibendazole (Filaribits Plus) Tablet–dog
138–828	Virginiamycin Salinomycin (Stafac 10, 20, 50, 500 Bio-cox) Premix Coccidiostat–poultry
138–953	Virginiamycin Salinomycin Roxarsone (Stafac Bio-cox 3-nitro) Premix–poultry
140–839	Mupirocin (Bactoderm) Ointment–dog
140–857	Luprostiol (Equestrolin) Injectable Equine–mare
140–862	Detomidine Hydrochloride (Dormosedan) Equine Injection–mare
140–879	Nystatin, Neomycin Sulfate, Thiostrepton, Triamcinolone Acetonide (Derma 4) Ointment–dog and cat
140–893	Epsiprantel (Cestex) Tablets–dog and cat
140–934	Albendazole (Valbazen) Oral Suspension Sheep Anthelmintic–sheep
140–998	Virginiamycin (V-max) Type A Medicated Article Feedlot–cattle

The agency is amending 21 CFR 510.600(c)(1) and (c)(2) to remove the sponsor name for SmithKline Beecham Animal Health because the firm no longer is the holder of any approved NADA's. The agency is also amending 21 CFR parts 520, 522, 524, 526, 529, and 558 to reflect the change of sponsor.

List of Subjects

21 CFR Part 510

Administrative practice and procedure, Animal drugs, Labeling, Reporting and recordkeeping requirements.

21 CFR Parts 520, 522, 524, 526, and 529

Animal drugs.

21 CFR Part 558

Animal drugs, Animal feeds.

Therefore, under the Federal Food, Drug, and Cosmetic Act and under authority delegated to the Commissioner of Food and Drugs and redelegated to the Center for Veterinary Medicine, 21 CFR parts 510, 520, 522, 524, 526, 529, and 558 are amended as follows:

PART 510—NEW ANIMAL DRUGS

1. The authority citation for 21 CFR part 510 continues to read as follows:

Authority: Secs. 201, 301, 501, 502, 503, 512, 701, 721 of the Federal Food, Drug, and Cosmetic Act (21 U.S.C. 321, 331, 351, 352, 353, 360b, 371, 379e).

§ 510.600 [Amended]

2. Section 510.600 *Names, addresses, and drug labeler codes of sponsors of approved applications* is amended in the table in paragraph (c)(1) by removing the entry for ''SmithKline Beecham Animal Health'' and in the table in paragraph (c)(2) by removing the entry for ''053571''.

PART 520—ORAL DOSAGE FORM NEW ANIMAL DRUGS

3. The authority citation for 21 CFR part 520 continues to read as follows:

Authority: Sec. 512 of the Federal Food, Drug, and Cosmetic Act (21 U.S.C. 360b).

§ 520.45a [Amended]

4. Section 520.45a *Albendazole suspension* is amended in paragraph (b) by removing ''053571'' and adding in its place ''000069''.

§ 520.45b [Amended]

5. Section 520.45b *Albendazole paste* is amended in paragraph (b) by removing ''053571'' and adding in its place ''000069''.

§ 520.88a [Amended]

6. Section 520.88a *Amoxicillin trihydrate film-coated tablets* is amended in paragraph (b) by removing ''053571'' and adding in its place ''000069''.

§ 520.88b [Amended]

7. Section 522.88b *Amoxicillin trihydrate for oral suspension* is amended in paragraph (b) by removing ''053571'' and adding in its place ''000069''.

§ 520.88c [Amended]

8. Section 520.88c *Amoxicillin trihydrate oral suspension* is amended in paragraph (b) by removing ''053571'' and adding in its place ''000069''.

§ 520.88d [Amended]

9. Section 520.88d *Amoxicillin trihydrate soluble powder* is amended in paragraph (b) by removing ''053571'' and adding in its place ''000069''.

§ 520.88e [Amended]

10. Section 520.88e *Amoxicillin trihydrate boluses* is amended in paragraph (b) by removing ''053571'' and adding in its place ''000069'' .

§ 520.88g [Amended]

11. Section 520.88g *Amoxicillin trihydrate and clavulanate potassium film-coated tablets* is amended in paragraph (b) by removing ''053571'' and adding in its place ''000069''.

§ 520.88h [Amended]

12. Section 520.88h *Amoxicillin trihydrate and clavulanate potassium for oral suspension* is amended in paragraph (b) by removing ''053571'' and adding in its place ''000069''.

§ 520.90b [Amended]

13. Section 520.90b *Ampicillin trihydrate tablets* is amended in paragraph (b) by removing ''053571'' and adding in its place ''000069''.

§ 520.90f [Amended]

14. Section 520.90f *Ampicillin trihydrate boluses* is amended in paragraph (b) by removing ''053571'' and adding in its place ''000069''.

§ 520.540c [Amended]

15. Section 520.540c *Dexamethasone chewable tablets* is amended in paragraph (b) by removing ''053571'' and adding in its place ''000069''.

§ 520.550 [Amended]

16. Section 520.550 *Dextrose/glycine/electrolyte* is amended in paragraph (b) by removing ''053571'' and adding in its place ''000069''.

§ 520.622c [Amended]

17. Section 520.622c *Diethylcarbamazine citrate chewable tablets* is amended in paragraph (b)(2) by removing ''053571'' and adding in its place ''000069''.

§ 520.623 [Amended]

18. Section 520.623 *Diethylcarbamazine citrate, oxibendazole chewable tablets* is amended in paragraph (b) by removing ''053571'' and adding in its place ''000069''.

§ 520.816 [Amended]

19. Section 520.816 *Epsiprantel tablets* is amended in paragraph (b) by removing ''053571'' and adding in its place ''000069''.

§ 520.1284 [Amended]

20. Section 520.1284 *Sodium liothyronine tablets* is amended in paragraph (b) by removing ''053571'' and adding in its place ''000069''.

§ 520.1638 [Amended]

21. Section 520.1638 *Oxibendazole paste* is amended in paragraph (b) by removing ''053571'' and adding in its place ''000069''.

§ 520.1640 [Amended]

22. Section 520.1640 *Oxibendazole suspension* is amended in paragraph (b) by removing ''053571'' and adding in its place ''000069''.

§ 520.1840 [Amended]

23. Section 520.1840 *Poloxalene* is amended in paragraph (c)(1) and (c)(2) by removing ''053571'' and adding in its place ''000069''.

§ 520.1920 [Amended]

24. Section 520.1920 *Prochlorperazine, isopropamide sustained release capsules* is amended in paragraph (b) by removing ''053571'' and adding in its place ''000069''.

§ 520.1921 [Amended]

25. Section 520.1921 *Prochlorperazine, isopropamide with neomycin sustained-release capsules* is amended in paragraph (b) by removing ''053571'' and adding in its place ''000069''.

§ 520.2260a [Amended]

26. Section 520.2260a *Sulfamethazine oblets and boluses* is amended in paragraph (b)(1) by removing ''053501'' and adding in its place ''000069''.

§ 520.2260b [Amended]

27. Section 520.2260b *Sulfamethazine sustained-release boluses* is amended in paragraph (b)(1) by removing ''053501'' and adding in its place ''000069''.

§ 520.2260c [Amended]

28. Section 520.2260c *Sulfamethazine sustained-release tablets* is amended in paragraph (a) by removing ''053501'' and adding in its place ''000069''.

§ 520.2604 [Amended]

29. Section 520.2604 *Trimeprazine tartrate and prednisolone tablets* is amended in paragraph (b) by removing ''053571'' and adding in its place ''000069''.

§ 520.2605 [Amended]

30. Section 520.2605 *Trimeprazine tartrate and prednisolone capsules* is amended in paragraph (b) by removing ''053571'' and adding in its place ''000069''.

PART 522—IMPLANTATION OR INJECTABLE DOSAGE FORM NEW ANIMAL DRUGS

31. The authority citation for 21 CFR part 522 continues to read as follows:

Authority: Sec. 512 of the Federal Food, Drug, and Cosmetic Act (21 U.S.C. 360b).

§ 522.88 [Amended]

32. Section 522.88 *Sterile amoxicillin trihydrate for suspension* is amended in paragraph (b) by removing ''053571'' and adding in its place ''000069''.

§ 522.90a [Amended]

33. Section 522.90a *Ampicillin trihydrate sterile suspension* is amended in paragraph (b)(1) by removing ''053571'' and adding in its place ''000069''.

§ 522.90c [Amended]

34. Section 522.90c *Ampicillin sodium for aqueous injection* is amended in paragraph (b) by removing ''053571'' and adding in its place ''000069''.

§ 522.540 [Amended]

35. Section 522.540 *Dexamethasone injection* is amended in paragraph (d)(2)(i) by removing ''053571'' and adding in its place ''000069''.

§ 522.1290 [Amended]

36. Section 522.1290 *Luprostiol sterile solution* is amended in paragraph (b) by removing ''053571'' and adding in its place ''000069''.

§ 522.1920 [Amended]

37. Section 522.1920 *Prochlorperazine, isopropamide for injection* is amended in paragraph (b) by removing ''053571'' and adding in its place ''000069''.

PART 524—OPHTHALMIC AND TOPICAL DOSAGE FORM NEW ANIMAL DRUGS

38. The authority citation for 21 CFR part 524 continues to read as follows:

Authority: Sec. 512 of the Federal Food, Drug, and Cosmetic Act (21 U.S.C. 360b).

§ 524.1005 [Amended]

39. Section 524.1005 *Furazolidone aerosol powder* is amended in paragraph (b)(1) by removing ''053501'' and adding in its place ''000069''.

§ 524.1465 [Amended]

40. Section 524.1465 *Mupirocin ointment* is amended in paragraph (b) by removing ''053571'' and adding in its place ''000069''.

§ 524.1580b [Amended]

41. Section 524.1580b *Nitrofurazone ointment* is amended in paragraph (b) by removing ''053571'' and adding in its place ''000069''.

§ 524.1580c [Amended]

42. Section 524.1580c *Nitrofurazone soluble powder* is amended in paragraph

(b) by removing ''053571'' and adding in its place ''000069''.

§ 524.1600a [Amended]

43. Section 524.1600a *Nystatin, neomycin, thiostrepton, and triamcinolone acetonide ointment* is amended in paragraph (b) by removing ''053571'' and adding in its place ''000069''.

PART 526—INTRAMAMMARY DOSAGE FORMS

44. The authority citation for 21 CFR part 526 continues to read as follows:

Authority: Sec. 512 of the Federal Food, Drug, and Cosmetic Act (21 U.S.C. 360b).

§ 526.88 [Amended]

45. Section 526.88 *Amoxicillin trihydrate for intramammary infusion* is amended in paragraph (b) by removing ''05371'' and adding in its place ''000069''.

§ 526.464a [Amended]

46. Section 526.464a *Cloxacillin benzathine for intramammary infusion* is amended in paragraph (d) by removing ''053571'' and adding in its place ''000069''.

§ 526.464b [Amended]

47. Section 526.464b *Cloxacillin benzathine for intramammary infusion, sterile* is amended in paragraph (d) by removing ''053571'' and adding in its place ''000069''.

§ 526.464c [Amended]

48. Section 526.464c *Cloxacillin sodium for intramammary infusion, sterile* is amended in paragraph (b) by removing ''053571'' and adding in its place ''000069''.

§ 526.464d [Amended]

49. Section 526.464d *Cloxacillin sodium for intramammary infusion* is amended in paragraph (b) by removing ''053571'' and adding in its place ''000069''.

PART 529—CERTAIN OTHER DOSAGE FORM NEW ANIMAL DRUGS

50. The authority citation for 21 CFR part 529 continues to read as follows:

Authority: Sec. 512 of the Federal Food, Drug, and Cosmetic Act (21 U.S.C. 360b).

§ 529.2464 [Amended]

51. Section 529.2464 *Ticarcillin powder* is amended in paragraph (b) by removing ''053571'' and adding in its place ''000069''.

PART 558—NEW ANIMAL DRUGS FOR USE IN ANIMAL FEEDS

52. The authority citation for 21 CFR part 558 continues to read as follows:

Authority: Secs. 512, 701 of the Federal Food, Drug, and Cosmetic Act (21 U.S.C. 360b, 371).

§ 558.464 [Amended]

53. Section 558.464 *Poloxalene* is amended in paragraph (a)(1) and (a)(2) by removing ''053571'' and adding in its place ''000069''.

§ 558.465 [Amended]

54. Section 558.465 *Poloxalene free-choice liquid Type C feed* is amended in paragraph (a) by removing ''053571'' and adding in its place ''000069''.

§ 558.635 [Amended]

55. Section 558.635 *Virginiamycin* is amended in paragraph (b)(1) by removing ''053571'' and adding in its place ''000069''.

Dated: October 24, 1995.

Robert C. Livingston,

Director, Office of New Animal Drug Evaluation, Center for Veterinary Medicine.

[FR Doc. 95–26986 Filed 11–1–95; 8:45 am]

BILLING CODE 4160–01–F

GENERAL SERVICES ADMINISTRATION

41 CFR Part 201–9

RIN 3090–AF72

Amendment to Revise FIRMR Provisions Regarding the Standard and Optional Forms Management Program

AGENCY: Information Technology Service, GSA.

ACTION: Final rule.

SUMMARY: This rule amends the Federal Information Resources Management Regulation (FIRMR) to simplify and clarify procedures related to the Standard and Optional Forms Management Program. Current procedures for this Program result in delays in the processing of forms requests, especially requests for exceptions to the use of Standard forms. This rule streamlines these processes and allows agencies to deal directly with the responsible parties regarding the issuance and printing of these forms. The specific changes in this rule include allowing agencies to obtain approval for an exception to the use of Standard forms directly from the promulgating agencies; and giving the promulgating agencies full responsibility for: certifying their proposed forms comply with applicable laws and regulations, announcing the availability of new or revised Standard forms and providing GSA with an accurate camera ready copy of the forms.

EFFECTIVE DATE: This rule is effective December 4, 1995.

FOR FURTHER INFORMATION CONTACT: R. Stewart Randall, GSA, Office of Information Technology (IT) Policy and Leadership, Center for IT Policy and Regulations Management (KAR), 18th and F Streets, NW., Room 3224, Washington, DC 20405, telephone FTS/Commercial (202) 501–4469 (v) or (202) 501–4469 (tdd).

SUPPLEMENTARY INFORMATION: (1) Part 201–9.202 is amended to delegate additional authority and responsibility to agencies regarding the granting of exceptions to Standard Forms. Currently, the FIRMR requires Federal agencies to submit a request for an exception to a Standard Form directly to GSA. GSA then reviews the exception request for conformance to good forms management practices. However, GSA also forwards the exception request directly to the promulgating agency for the agency's recommendation for approval or disapproval of the exception request. Since GSA and the promulgating agency typically agree on the disposition of an exception request, GSA believes it is more efficient to give promulgating agencies full authority for the exception request process. Accordingly, the requirement in section 201–9.202–1 paragraph (b)(2) for Federal agencies to obtain approval from GSA for exceptions to Standard forms is removed for the FIRMR. Instead, agencies will send their exception requests directly to the agency promulgating the Standard Form.

(2) Agencies typically request to establish standard forms because of a statutory or programmatic requirement. In the past, GSA conducted research to verify a requested form was consistent with the agency's authority and would meet the agency's requirements. GSA now will accept agencies' certification that their new or revised forms requirements are legally required and technically adequate. This change eliminates GSA duplicating work already performed by the agency. Agencies will also be required to announce the availability of their new or revised forms in the Federal Register and provide GSA an accurate camera ready copy of the new or revised form. GSA will no longer verify the accuracy of the camera ready copy. Agencies are given full authority and responsibility to

ensure the accuracy of their copies; just as they are with other aspects of establishing new or revised forms. These changes are reflected in § 201–9.202–1 paragraphs (b)(4) and (b)(6). GSA will continue to publish a list of all Standard and Optional forms in its Inventory of Standard and Optional Forms and facsimiles of all forms in its Standard and Optional Forms Facsimile Handbook.

(3) Several format and editorial changes are also being made to § 201–9.202–1 to reflect the new operating environment of the forms program. Also, this amendment reflects a change in the responsibility for the Standard and Optional Forms Management Program from the Center for IT Policy and Regulations Management (KAR) to the Forms Management Branch (CARM) due to the transfer of program responsibility within GSA. FIRMR Bulletin B–3 has also been revised to reflect the above changes.

(4) GSA has determined that this rule is not a significant rule for the purposes of Executive Order 12866 of September 30, 1993, because it is not likely to result in any of the impacts noted in Executive Order 12866, affect the rights of specified individuals, or raise issues arising from the policies of the Administration. GSA has based all administrative decisions underlying this rule on adequate information concerning the need for the consequences of this rule; has determined that the potential benefits to society from this rule outweigh the potential costs; has maximized the net benefits; and has chosen the alternative approach involving the least net cost of society.

List of Subjects in 41 CFR Part 201–9

Archives and records, Computer technology, Telecommunications, Government procurement, Property management, Records management, and Federal information processing resources activities.

For the reasons set forth in the preamble, GSA proposes to amend 41 CFR part 201–9 as follows:

PART 201–9—CREATING, MAINTENANCE, AND USE OF RECORDS

1. The authority citation for part 201–9 continues to read as follows:

Authority: 40 U.S.C. 486(c) and 751(f).

2. Section 201–9.202–1 is revised to read as follows:

§ 201–9.202–1 Standard and Optional Forms Management Program.

(a) *General.* (1) The Standard and Optional Forms Management Program was established to achieve Governmentwide economies and efficiencies through the development, maintenance and use of common forms.

(2) FIRMR Bulletin B–3 contains additional guidance on the Standard and Optional Forms Management Program.

(b) *Procedures.* Each Federal agency shall—

(1) Designate an agency-level Standard and Optional Forms Liaison Representative and Alternate, and notify GSA in writing of such designees' names, titles, mailing addresses, and telephone numbers within 30 days of the designation or redesignation at the address in paragraph (b)(4) of this section;

(2) Promulgate Governmentwide Standard Forms pursuant to the agency's statutory or regulatory authority and issue in the Federal Register Governmentwide procedures on the mandatory use, revision, or cancellation of these forms;

(3) Sponsor Governmentwide Optional Forms when needed in two or more agencies and announce the Governmentwide availability, revision or cancellation of these forms;

(4) Request GSA approval for each new, revised or canceled Standard and Optional Form, 60 days prior to planned implementation, and certify that the forms comply with all applicable laws and regulations. Send approval requests to: General Services Administration, Forms Management Branch (CARM), Washington, DC 20405;

(5) Provide GSA with a camera ready copy of the Standard and Optional Forms the agency promulgates or sponsors prior to implementation, at the address shown in paragraph (b)(4) of this section;

(6) Obtain promulgator's or sponsor's approval for all exceptions to Standard and Optional Forms prior to implementation;

(7) Annually review all Standard and Optional Forms which the agency promulgates or sponsors, including exceptions, for improvement, consolidation, or cancellation;

(8) When requested by GSA and OMB, submit a summary of the Standard and Optional Forms used for collection of information covered by 5 CFR part 1320;

(9) Request approval to overprint Standard and Optional Forms by contacting GSA (CARM); and

(10) Coordinate all matters concerning health care related Standard Forms through the Interagency Committee on Medical Records (ICMR). For additional information on the ICMR, contact GSA (CARM).

Dated: October 24, 1995.

Roger W. Johnson,

Administrator of General Services.

[FR Doc. 95–27221 Filed 11–1–95; 8:45 am]

BILLING CODE 6820–25–M

FEDERAL COMMUNICATIONS COMMISSION

47 CFR Part 73

[MM Docket No. 92–7, RM–7879]

Radio Broadcasting Services; Scotland Neck and Pinetops, NC

AGENCY: Federal Communications Commission.

ACTION: Final rule; denial of petition for reconsideration.

SUMMARY: This document denies the petition for reconsideration filed by Radio Triangle East Company of our *Report and Order*, 57 FR 36906 (August 17, 1992) which upgraded Channel 238A for Channel 238C3 at Scotland Neck, reallotted Channel 238C3 to Pinetops, NC, and modified the license of Station WWRT(FM) to specify Pinetops as its community of license. The Commission determined that the upgrade and reallotment of the Scotland Neck channel to Pinetops, NC was a preferential arrangement of allotments and it resulted in a first transmission service to Pinetops. With this action, this proceeding is terminated.

EFFECTIVE DATE: November 2, 1995.

FOR FURTHER INFORMATION CONTACT: Arthur D. Scrutchins, Mass Media Bureau, (202) 776–1660.

SUPPLEMENTARY INFORMATION: This is a synopsis of the Commission's *Memorandum Opinion and Order*, MM Docket No. 92–7, adopted September 28, 1995 and released October 11, 1995. The full text of this Commission decision is available for inspection and copying during normal business hours in the FCC Reference Center (Room 239), 1919 M Street, NW., Washington DC. The complete text of this decision may also be purchased from the Commission's copy contractors, International Transcription Service, Inc., (202) 857–3800, 2100 M Street, NW., Suite 140, Washington, DC 20037.

List of Subjects in 47 CFR Part 73

Radio broadcasting.

Federal Communications Commission.

Bruce A. Romano,

Deputy Chief, Policy and Rules Division, Mass Media Bureau.

[FR Doc. 95–27186 Filed 11–1–95; 8:45 am]

BILLING CODE 6712–01–F

DEPARTMENT OF COMMERCE

National Oceanic and Atmospheric Administration

50 CFR Part 675

[Docket No. 950206040–5040–01; I.D. 102795A]

Groundfish of the Bering Sea and Aleutian Islands Area; Pacific Cod by Vessels Using Trawl Gear in the Bering Sea and Aleutian Islands Management Area

AGENCY: National Marine Fisheries Service (NMFS), National Oceanic and Atmospheric Administration (NOAA), Commerce.

ACTION: Closure.

SUMMARY: NMFS is closing the directed fishery for Pacific cod by vessels using trawl gear in the Bering Sea and Aleutian Islands management area (BSAI). This action is necessary to prevent exceeding the 1995 prohibited species bycatch mortality allowance of Pacific halibut specified for the trawl Pacific cod fishery in the BSAI.

EFFECTIVE DATE: 12 noon, Alaska local time (A.l.t.), October 28, 1995, until 12 midnight, December 31, 1995.

FOR FURTHER INFORMATION CONTACT: Mary Furuness, 907–586-7228.

SUPPLEMENTARY INFORMATION: The groundfish fishery in the BSAI exclusive economic zone is managed by NMFS according to the Fishery Management Plan for the Groundfish Fishery of the Bering Sea and Aleutian Islands Area (FMP) prepared by the North Pacific Fishery Management Council under authority of the Magnuson Fishery Conservation and Management Act. Fishing by U.S. vessels is governed by regulations implementing the FMP at 50 CFR parts 620 and 675.

The 1995 bycatch mortality allowance of Pacific halibut for the BSAI trawl Pacific cod fishery, which is defined at § 675.21(b)(1)(iii)(E), was established as 1,550 metric tons (mt) by the Final 1995 Harvest Specifications of Groundfish (60 FR 8479, February 14, 1995).

The Director, Alaska Region, NMFS, has determined, in accordance with § 675.21(c)(1)(iii), that the 1995 apportionment of the Pacific halibut bycatch mortality allowance for the trawl Pacific cod fishery has been caught. Therefore, NMFS is prohibiting directed fishing for Pacific cod by vessels using trawl gear in the BSAI.

Directed fishing standards for applicable gear types may be found in the regulations at § 675.20(h).

Classification

This action is taken under § 675.21 and is exempt from review under E.O. 12866.

Authority: 16 U.S.C. 1801 *et seq.*

Dated: October 27, 1995.

Richard W. Surdi,

Acting Director, Office of Fisheries Conservation and Management, National Marine Fisheries Service.

[FR Doc. 95–27154 Filed 10–27–95; 4:12 pm]

BILLING CODE 3510–22–F

Proposed Rules

Federal Register
Vol. 60, No. 212
Thursday, November 2, 1995

This section of the FEDERAL REGISTER contains notices to the public of the proposed issuance of rules and regulations. The purpose of these notices is to give interested persons an opportunity to participate in the rule making prior to the adoption of the final rules.

NATIONAL CREDIT UNION ADMINISTRATION

12 CFR Part 701

Supervisory Committee Audits and Verifications

AGENCY: National Credit Union Administration (NCUA).

ACTION: Proposed rule.

SUMMARY: The National Credit Union Administration (NCUA) is proposing to amend its regulations governing credit union supervisory committee audits and verifications. The NCUA Board is proposing to amend the regulations to clarify existing audit scope; expand audit scope and reporting requirements in certain areas; clarify existing working paper access requirements and strengthen administrative remedies for denial of access; require a comprehensive engagement letter setting forth minimum contracting terms and conditions; and add relevant definitions of accounting/auditing terms used throughout the regulation.

DATES: Comments must be received on or before January 2, 1996.

ADDRESSES: Send comments to Becky Baker, Secretary of the Board, National Credit Union Administration Board, 1775 Duke Street, Alexandria, VA 22314–3428.

FOR FURTHER INFORMATION CONTACT: Karen Kelbly, Accounting Officer, Office of Examination and Insurance (703) 518–6360, or Michael McKenna, Attorney, Office of General Counsel (703) 518–6540, at the above address.

SUPPLEMENTARY INFORMATION:

Background

On March 25, 1993, the NCUA Board issued for public comment a proposed amendment to the ''then'' supervisory committee audit and verification requirements. Two hundred two comment letters were received over a 60-day comment period which ended June 7, 1993. Thirty-one commenters gave their full support of the amendment as written; fifty-three commenters offered mixed support; and one hundred eighteen commenters opposed the amendment.

In their final amendment, the NCUA Board changed the regulations governing supervisory committee audits and verification to: (1) Add a nonstatistical sampling option for independent, licensed, certified public accountants in the verification of members' accounts consistent with applicable generally accepted auditing standards (GAAS); and (2) change applicable sections of the ''then'' regulation to more properly reflect accounting/auditing terms of art without otherwise changing the intent of the regulation. Dropped from consideration in the final amendment were the proposed amendments to require independent annual audits (opinion audits) for federally insured credit unions with assets exceeding $50 million, and to require that the supervisory committee and/or its auditors provide NCUA the option to photocopy working papers supporting the audit.

Since July 1993 when § 701.12 was last amended, NCUA has had continued concerns about the scope of the supervisory committee audit. Many of these concerns are outlined in specific detail below. Rather than again proposing an amendment for an opinion audit requirement, which many commenters soundly rejected in their comment letters on the last proposed amendment, the Board wishes to solicit views on a proposed revision to the current regulation which expands audit scope without requiring an opinion audit. This proposal is an opportunity to consider a middle ground approach, with the goal of building a consensus that both the regulated and the regulator would find agreeable.

Currently, § 701.12, 12 C.F.R. 701.12, sets forth the supervisory committee's responsibility in meeting the audit and verification requirements of section 115 of the Federal Credit Union Act, 12 U.S.C. 1761d. A supervisory committee audit is required at least once every calendar year covering the period since the last audit. The scope of the audit must be sufficient, at a minimum, to test the federal credit union's assets, liabilities, equity, income, and expenses for existence, proper cut off, valuations, ownership, disclosures and classification, and internal controls (current § 701.12(b)). A written report on the audit must be made to the board of directors and, if requested, NCUA (current § 701.12(c)). Working papers must be maintained and made available to NCUA (current § 701.12(c)). Independence requirements must be met (current § 701.12(d)); standards governing verifications—100 percent verification or statistical sampling—are set forth (current § 701.12(e)). Section 741.2 makes these requirements applicable to federally insured state-chartered credit unions.

The proposed regulation will address practical enforcement problems in the existing regulation, some of which have arisen through the examination process as a matter of course and others of which have arisen in litigation and in negotiating settlements. The proposed changes in audit scope represent increased requirements which the Board believes have grown out of necessity. The scope changes are more specific and are aimed at eliminating vagueness regarding the audit scope required, in certain targeted risk areas, to meet the provisions of this regulation. The vagueness of audit scope has been the subject of complaints from both the regulated and the regulator/insurer.

The majority of added requirements are not applicable to credit unions which do not employ a compensated auditor. If the supervisory committee or an uncompensated designated representative will be performing the supervisory committee audit as described in § 701.12(4)(iv), the following portions of the proposed regulation *do not apply* to the supervisory committee audit: § 701.12(c)(3) [increased scope requirements in designated areas]; § 701.12(4)(i)(A)–(C) [opinion audits and agreed-upon-procedures in relation to compensated auditors]; and § 701.12(d) [engagement letter requirements].

Proposed Regulation

Added to the first part of proposed § 701.12(a) is a set of definitions for terms used in the regulation. Many of these terms, while familiar to accounting/auditing professionals, may be less well known to supervisory committee volunteers. For example, the definition of ''audit'' is intended to closely follow the language in AICPA, Professional Standards, volume 1, AU

section 110.01; the definition of ''independence'' is intended to be consistent with Rule 101 of the AICPA Code of Professional Conduct; the definition of ''related party transactions'' is intended to be consistent with FASB Statement No. 57; and the definition of ''internal control reportable conditions'' is intended to be consistent with Statement of Auditing Standard (SAS) No. 60, Communication of Internal Control Structure Related Matters Noted in an Audit (AICPA, Professional Standards, volume 1, AU section 325).

Additionally, as concerns ''independence,'' the auditor must be intellectually honest and be recognized as independent, i.e., free from any material obligation to or interest in the credit union or its officials. The independent auditor must enjoy the confidence of the general public. Such confidence may be compromised by evidence that independence is lacking, or by the existence of circumstances which reasonable people might believe likely to influence independence. The definition of ''related party transactions'' uses as examples of senior management the chief executive officer (CEO), president, treasurer/manager, assistant CEO, and the chief financial officer (Comptroller) of a credit union, and their families, etc. However, this is not intended to be an all inclusive list of related parties.

The proposed definitions rely on accepted supplemental references, e.g., a reference for the definition of ''generally accepted accounting principles'' is SAS No. 69, The Meaning of ''*Present Fairly in Conformity With Generally Accepted Accounting Principles*'' in the Independent Auditor's Report which establishes a GAAP hierarchy (GAAP serves to provide a standard by which to measure financial statement presentations); a reference for the definition of ''internal controls'' is Internal Control—Integrated Framework, published by the Committee of Sponsoring Organizations of the Treadway Commission; and a reference for the definition of ''illegal acts'' is SAS No. 54, Illegal Acts By Clients, (AICPA, Professional Standards, volume 1 AU section 317). The definitions section was added to elucidate terms used in the regulation. The NCUA Board seeks comments as to whether the definitions clarify the regulation. The NCUA Board also is interested to learn of any additional terms which should be defined in the regulation.

Subsections 701.12(b)(1), (b)(2), and (c)(1), (c)(2) of the proposed regulation represent a reordering of the existing regulatory provisions with minor changes in language which are intended not to change, but to clarify, the existing regulation's meaning or provisions. However, the supervisory committee is expected to conduct such further tests and reviews as may, in the committee's judgment, be necessary to meet its responsibilities. Additionally, the changes incorporate in part enhancements suggested by the American Institute of Certified Public Accountants, Credit Unions Committee (''the AICPA Committee''). The AICPA Committee reviewed the proposed regulation for technical accuracy of usage of accounting/auditing technical terms and concepts. NCUA is grateful to the AICPA Committee for its advice during the drafting of the proposed regulation.

The audit scope changes added to § 701.12(c)(3) expand the required audit scope when a supervisory committee employs the services of a compensated auditor. The additional requirements are not intended to discourage a credit union from hiring a compensated auditor, but are intended to achieve a more definitive audit scope in targeted areas, which experience indicates are of higher risk in credit unions. The AICPA audit guide, Audits of Credit Unions, prepared by the AICPA Credit Unions Committee, is a proper reference for the auditor in making judgments, based on the facts and circumstances of the engagement, as to what procedures to perform to obtain sufficient, competent evidential matter to afford a reasonable basis for conclusions regarding the financial statements under audit. The NCUA Board believes the expanded scope will provide those credit unions having the resources to employ a compensated auditor with an enhanced audit product that meets the applicable GAAS requirements of an opinion audit in the following areas: internal controls; cash; loans and interest thereon; investments and interest thereon; shares and dividends and/or interest thereon; related party transactions; and the detection and reporting of errors and irregularities. NCUA believes this increased scope requirement not only will give the credit union a greater return on the dollars invested in the audit, but will result in a more useful audit report for the examiner, whether regulator or insurer.

The more definitive audit scope is designed to address and to reduce confusion which occurs when the supervisory committee and the compensated auditor agree that the audit engagement will consist of less than the full scope of a supervisory committee audit as prescribed in 701.12 (b) and (c). Experience indicates that supervisory committees often do not realize that, due to the compensated auditor's exclusion of scope provisions (e.g., evaluation of the reasonableness of the allowance for loan losses, evaluation of securities held, adequacy of loan collateral, etc.), the final audit product is not a complete supervisory committee audit. Nor do supervisory committees realize that in such instances they remain responsible for performing the additional audit work needed to ''fill the gaps'' and produce a complete supervisory committee audit. The NCUA Board believes that vagueness in the existing audit scope provision may have contributed to the confusion, and that a more definitive audit scope will end the finger pointing between supervisory committees and compensated auditors as to who is responsible for the audit scope components excluded from the audit engagement.

To further reduce confusion about responsibility for required scope components that are excluded from the audit engagement, the NCUA Board has added a requirement in § 701.12 (d)(2) and (d)(3) for the engagement letter between the supervisory committee and the compensated auditor to address audit scope either by (1) certifying that the compensated auditor is to complete the full scope of a supervisory committee audit or, alternatively (2) specifying what prescribed financial statement elements and/or attributes will be excluded from the engagement, and expressly cautioning the supervisory committee that it is responsible for fulfilling the scope of the supervisory committee audit with respect to the excluded elements and attributes.

The additions to § 701.12(c)(4) of the proposed regulation set forth how the requirements of this part may be satisfied. The revisions, like those discussed above, represent minor changes in language which are not intended to change the existing regulation's meaning or provisions. Instead, the revisions incorporate technical improvements suggested by the AICPA Committee. The additional requirement that the compensated auditors contract for the audit engagement only with the supervisory committee and return the written audit report(s) to the supervisory committee clarifies requirements contained in the current regulation.

The NCUA Board had considered including a requirement in the proposed regulation's audit scope for certain credit unions to have an ongoing internal audit function in the form of

either an internal auditor or an internal audit department. Such a function would benefit the credit union, the regulator, and the insurer. Internal auditors would neither take the place nor diminish the role of the supervisory committee in any way. Ideally, the internal auditor would be hired by, receive instructions from, and report to, the supervisory committee. The work of the internal auditor would supplement the mandated role and responsibilities of the supervisory committee. Although the NCUA Board has decided against requiring credit unions to employ an internal auditor, it encourages credit unions that have the resources, to consider the benefits of employing an internal auditor (e.g., testing of the effectiveness of internal controls on an interim and/or on-going basis; routine and on-going testing for material errors and omissions, and irregularities and illegal acts; continuous testing of the electronic data processing system for reliance thereon; and improving economy and efficiency). Internal auditors can play an important role in maintaining strong operational and financial management controls. The NCUA Board invites comments as to whether it should reconsider mandating an internal audit function and, if so, whether such a requirement should be imposed on all or only some credit unions, and on what basis., i.e., according to asset size, complexity of services, etc.

The NCUA Board is inclined to add requirements in § 701.12(d) for credit unions which employ compensated auditors to memorialize the terms and conditions of the engagement in a comprehensive engagement letter, which constitutes an enforceable contract between the compensated auditor and the supervisory committee. The proposed regulation sets forth the minimum requirement of an audit engagement to be addressed in such a letter. The majority of items required are fairly consistent with standard items included in engagement letters as used in current practice: terms and objectives of engagement; nature and limitations; identification of the basis of accounting to be used; identification of areas excluded from the scope; and an appendix setting forth the procedures to be performed (if not an opinion audit). Other requirements were added to ensure access by NCUA to a complete set of original working papers and delivery of the required report(s) to the supervisory committee within a reasonable period of time. The NCUA Board seeks comment on any additional areas which should be addressed in the engagement letter memorializing the terms and conditions of the audit engagement.

Additional reporting requirements have been added in § 701.12(e)(1). Along with the existing requirement for a written audit report is a requirement for two additional written reports where applicable—a written report of internal control exceptions or reportable conditions noted, if any, and a written report of irregularities or illegal acts noted during the audit, if any. The addition of these two reporting requirements does not necessitate additional audit work (i.e., do not require separate engagements to report on the credit union's system of internal accounting control or its compliance with laws and regulations). These are simply reports of information already obtained in the normal course of the supervisory committee audit. This requirement corrects the current regulation, which does not require such reports to be communicated to either the credit union, the regulator, or the insurer.

A clarifying sentence was added to § 701.12(e)(2) to ensure that NCUA access to a complete set of original working papers includes all the existing documentation relative to the audit: audit programs, working papers documenting conclusions or judgments, supervisory reviewer's notes (if any), etc. This is a response to increasing instances where NCUA examiners find that information deemed by the auditor to be ''proprietary information'' is excluded from the working papers. The exclusion of this additional and pertinent documentation (e.g., audit programs) impairs NCUA's ability to assess the adequacy of the work performed by the auditor to satisfy the requirements of this section. Proposed § 701.12(d)(1)(vii) requires the supervisory committee to incorporate in the comprehensive engagement letter a certification by the outside compensated auditors that a complete set of original working papers supporting the audit, including the audit program, will be provided upon request for inspection by NCUA.

Finally, the NCUA Board has added an enforcement mechanism to ensure compliance with the requirements of this section and with the requirements of the comprehensive engagement letter memorializing the audit engagement between the supervisory committee and its compensated auditor. In the event of failure to comply, proposed § 701.12(e)(3) authorizes the Regional Director, as a first step toward enforcement, to reject as deficient the supervisory committee audit and the reports thereof. An additional and more severe sanction for failure to comply is available under section 206(r) of the FCU Act, 12 U.S.C. 1786(r), which authorizes NCUA to seek formal administrative sanctions (e.g., an order to cease and desist, or imposition of civil money penalties) against the supervisory committee and/or its compensated auditor as ''institution affiliated parties'' of the credit union.

Parts of the existing regulation relating to the independence and verification of members' accounts were unchanged in substance, although redesignated as subsections 701.12 (f) and (g), respectively.

One change to part 701.13 was made to give recognition to the redesignation of old § 701.12(e) to new § 701.12(g).

Regulatory Procedures

Regulatory Flexibility Act

The Regulatory Flexibility Act requires NCUA to prepare an analysis to describe any significant economic impact a proposed regulation may have on a substantial number of small credit unions (primarily those under $1 million in assets). The NCUA Board has determined and certifies that the proposed amendment, if adopted, will not have a significant economic impact on a substantial number of small credit unions. As to small credit unions, the proposed amendment clarifies without imposing additional burden. Accordingly, the NCUA Board determines and certifies that this proposed amendment does not have a significant economic impact on a substantial number of small credit unions and that a Regulatory Flexibility Analysis is not required.

Paperwork Reduction Act

NCUA has determined that the three requirements: (1) to prepare and sign an engagement letter memorializing the terms and conditions of the audit engagement in a comprehensive engagement letter, which constitutes an enforceable contract between the compensated auditor and the supervisory committee; (2) to provide a written report of internal control exceptions or reportable conditions noted, if any; and (3) to provide a written report of irregularities or illegal acts noted during the audit, if any; do constitute a collection of information under the Paperwork Reduction Act. The Paperwork Reduction Act of 1995 and regulations of the Office of Management and Budget (OMB) require that the public be provided an opportunity to comment on information collection requirements, including an

agency's estimate of the burden of the collection of information. NCUA estimates that most federal credit unions will be affected by this regulation. However, it is the NCUA's view that the time a credit union spends developing an enforceable engagement contract and provides in writing, known internal control exceptions and reportable conditions, if any, and/or irregularities and illegal acts, if any, is necessary to the effectiveness of the audit and verification function and thus, the safety and soundness of the credit union. The paperwork burden created by this rule is the requirement that such actions be put in writing. NCUA estimates that it should reasonably take one hour per requirement (thus, 1 hour minimum—3 hours maximum) to comply with the three requirements, if applicable to a given circumstance. Therefore, 12,000–36,000 total burden hours are required to comply with the collection requirement. For the majority of credit unions, 1 hour would be required, or 12,000 total burden hours.

The NCUA Board invites comment on: (1) whether the collection of the information is necessary for the proper performance of the functions of NCUA, including whether the information will have practical utility; (2) the accuracy of NCUA's estimate of the burden of the collection of information; (3) ways to enhance the quality, utility, and clarity of the information to be collected; and (4) ways to minimize the burden of collection of information. Send comments to Attn: Milo Sunderhaug, OMB Reports Management Branch, New Executive Office Building, Rm. 10202, Washington, DC 20530.

Executive Order 12612

Executive Order 12612 requires NCUA to consider the effect of its actions on state interests. The proposed amendment will not have a substantial direct effect on the states, on the relationship between the national government and the states, or on the distribution of rights and responsibilities among the various levels of government.

List of Subjects in 12 CFR Part 701

Credit unions, Reporting and recordkeeping requirements.

By the National Credit Union Administration Board on October 19, 1995.

James Engel,

Acting Secretary of the Board.

Accordingly, it is proposed that 12 CFR, part 701 be amended to read as set forth below:

PART 701—[AMENDED]

1. The authority citation for Part 701 continues to read as follows:

Authority: 12 U.S.C. 1752(5), 1755, 1756, 1757, 1759, 1761a, 1761b, 1766, 1767, 1782, 1784, 1787, 1789, 1798 and Public Law 101–73. Section 701.6 is also authorized by 31 U.S.C. 3717. Section 701.31 is also authorized by 15 U.S.C. 1601, *et seq.,* 42 U.S.C. 1981 and 42 U.S.C. 3601–3610.

2. Section 701.12 is amended by redesignating paragraphs (d) and (e) as paragraphs (f) and (g), by revising paragraphs (a) through (c), and by adding new paragraphs (d) and (e) to read as follows:

§ 701.12 Supervisory committee audits and verifications.

(a) *Definitions.* As used in this chapter:

(1) *Agreed-upon procedures* means the performance by an independent, licensed certified public accountant of an engagement in which the scope is limited to applying specified agreed-upon procedures to one or more specified elements, accounts, or items of a financial statement. Such procedures are insufficient to express an opinion regarding either the financial statements taken as a whole, or the specified elements, accounts, or items.

(2) *Applicable generally accepted auditing standards (GAAS)* means generally accepted auditing standards to the extent applicable in the circumstances. The second general standard of GAAS relating to independence and the four standards relating to reporting are not applicable to a compensated auditor who is not an ''independent, licensed, certified public accountant'' as defined in paragraph (a)(9) of this section; all other requirements of GAAS would apply to such an auditor.

(3) *Audit* or *Opinion audit* means an examination of the financial statements performed by an independent, licensed, certified public accountant in accordance with generally accepted auditing standards. The objective of an ''audit'' or ''opinion audit'' is to express an opinion as to whether those financial statements present fairly, in all material respects, the financial position and the results of its operations and its cash flows in conformity with generally accepted accounting principles or an ''other comprehensive basis of accounting,'' as defined in paragraph (a)(11) of this section.

(4) *Compensated auditor* means any accounting/auditing professional who is compensated for performing the supervisory committee audit and/or verification services.

(5) *Financial statements* means a presentation of financial data, including accompanying notes, derived from accounting records of the credit union, and intended to disclose a credit union's economic resources or obligations at a point in time, or the changes therein for a period of time, in conformity with generally accepted accounting principles (GAAP) or an ''other comprehensive basis of accounting,'' as defined in paragraph (a)(11) of this section. Each of the following is considered to be a financial statement: a balance sheet or statement of financial condition; statement of income or statement of operations; statement of retained earnings; statement of cash flows; statement of changes in owners' equity; statement of assets and liabilities that does not include owners' equity accounts; statement of revenue and expenses; summary of operations; and statement of cash receipts and disbursements.

(6) *Generally accepted accounting principles (GAAP)* means the conventions, rules, and procedures which define accepted accounting practice. GAAP includes both broad general guidelines and detailed practices and procedures, provides a standard by which to measure financial statement presentations, and encompasses not only accounting principles and practices but also the methods of applying them.

(7) *Generally accepted auditing standards (GAAS)* means the standards approved and adopted by the American Institute of Certified Public Accountants which apply when an ''independent, licensed certified public accountant'' audits financial statements. Auditing standards differ from auditing procedures in that ''procedures'' address acts to be performed, whereas ''standards'' measure the quality of the performance of those acts and the objectives to be achieved by use of the procedures undertaken. In addition, auditing standards address the auditor's professional qualifications as well as the judgment exercised in performing the audit and in preparing the report of the audit. Copies of GAAS may be obtained from Harcourt Brace & Co., 6277 Sea Harbor Drive, Orlando, FL 32887.

(8) *Independence* and *Independent* means to be without bias with respect to the credit union so as to maintain the impartiality necessary for the reliability of the compensated auditor's findings. Independence requires the exercise of fairness toward credit union management, members, creditors and others who may rely upon the independent, compensated auditor's

report. Auditors must be independent in fact and in appearance.

(9) *Independent, licensed, certified public accountant* means an individual who has passed the Uniform Certified Public Accounting Examination, is licensed by a state board of accountancy to practice accounting/auditing, and is independent as defined in paragraph (a)(8) of this section.

(10) *Internal controls* means the process, established by the credit union's board of directors, officers and employees, designed to provide reasonable assurance of reliable financial reporting and safeguarding of assets against unauthorized acquisition, use, or disposition. A credit union's internal control structure consists of five components: control environment; risk assessment; control activities; information and communication; and monitoring. Reliable financial reporting refers to preparation of financial statements that ''present fairly'' the financial position and results of its operations and its cash flows, in conformity with GAAP or an ''other comprehensive basis of accounting,'' as defined in paragraph (a)(11) of this section. Internal control over safeguarding of assets against unauthorized acquisition, use, or disposition refers to prevention or timely detection of transactions involving such unauthorized access, use, or disposition of assets which could result in a loss which is material to the financial statements.

(11) *Other comprehensive basis of accounting* means a comprehensive basis of accounting or definite set of criteria, other than GAAP, having substantial support. In this case the ''other comprehensive basis of accounting'' is limited to applicable regulatory accounting practices (RAP), i.e., that basis of accounting which has the substantial support of NCUA or the state supervisor, when applicable.

(12) *Related party transactions* means transactions among or between parties where one party controls or can significantly influence the management or operating policies of the other so as to prevent the other party from pursuing exclusively its own interests. Examples of related parties include: credit union members and their families, and credit union officials and their families. Examples of ''related party transactions'' include: interest-free loans or loans at below market rates; sale of real estate significantly below appraised value; nonmonetary exchange of property; and making of loans lacking scheduled terms for repayment.

(13) *Reportable Conditions* means a matter coming to the compensated auditor's attention that, in his or her judgment, represents a significant deficiency in the design or operation of the internal control structure of the credit union, which could adversely affect its ability to record, process, summarize, and report financial data consistent with the representations of management in the financial statements.

(14) *Substantive testing* means testing of details and analytical procedures to detect material misstatements in the account balance, transaction class, and disclosure components of financial statements.

(15) *Supervisory committee* means a supervisory committee as defined in Section 111(b) of the Federal Credit Union Act, 12 U.S.C. 1761(b). For some federally-insured state chartered credit unions, the ''audit committee'' designated by state statute or regulation is the equivalent of a supervisory committee.

(16) *Supervisory committee audit* means an examination of the credit union's financial statements in accordance with applicable GAAS, which is performed by the supervisory committee or its designated representative as prescribed in paragraph (c)(4) of this section. An audit as defined in paragraph (a)(3) of this section satisfies the definition of a ''supervisory committee audit.''

(17) *Working papers* means the principal record, in any form, of the work performed by the auditor and/or supervisory committee to support its findings and/or conclusions concerning significant matters. Examples include the written record of procedures applied, tests performed, information obtained, and pertinent conclusions reached in the engagement, audit programs, analyses, memoranda, letters of confirmation and representation, abstracts of credit union documents, reviewer's notes, if retained, and schedules or commentaries prepared or obtained by the independent, compensated auditor.

(b) *Supervisory committee responsibilities.* (1) The supervisory committee is responsible for ensuring that:

(i) The credit union's financial statements, taken as a whole, fairly present, in all material respects, the financial position, the results of its operations and its cash flows, in conformity with GAAP or an ''other comprehensive basis of accounting,'' although this requirement should not be interpreted to necessarily require an opinion audit.

(ii) The credit union's management practices and procedures are sufficient to safeguard members' assets.

(2)(i) To satisfy the requirements of paragraph (b)(1) of this section, the supervisory committee shall determine whether:

(A) Internal controls are established and effectively maintained to achieve the credit union's financial reporting objectives which, at a minimum, must support the satisfaction of the requirements of paragraphs (b) and (c) of this section;

(B) The credit union's accounting records and financial reports are promptly prepared and accurately reflect operations and results;

(C) The plans, policies, and control procedures established by the board of directors are properly administered; and

(D) Policies and control procedures are sufficient to safeguard against error, carelessness, conflict of interest, self-dealing and fraud.

(ii) The audit and verification of members' accounts, as mandated in Section 115 of the Federal Credit Union Act, 12 U.S.C. 1761d, are the minimum requirements for satisfying this paragraph (b).

(c) *Supervisory committee audit.* (1) A supervisory committee audit of each Federal credit union's financial statements shall occur at least once every calendar year and shall cover the period elapsed since the last audit. The supervisory committee audit shall be made by the supervisory committee or its designated representative, as described in paragraph (c)(4) of this section, using applicable GAAS.

(2) The scope of the supervisory committee audit shall include:

(i) Gaining an understanding of the internal control structure;

(ii) Assessing the level of control risk; and

(iii) Based on paragraph (c)(2)(ii) of this section, determining the nature, timing, and extent of substantive testing necessary to confirm the assertions made by management, in the financial statements, regarding each of assets, liabilities, equity, income, and expenses for the following attributes:

(A) Existence or occurrence;

(B) Completeness;

(C) Valuation or allocation;

(D) Rights and obligations; and

(E) Presentation and disclosures.

(3) For the compensated auditor, audit testing of the following areas must satisfy applicable GAAS for expressing an opinion on the financial statements taken as a whole: internal controls, cash, loans and interest thereon, investments and interest thereon, shares and dividends and/or interest thereon, related party transactions, and the detection and reporting of errors and irregularities with regard to each of these areas.

(4)(i) The requirements of the annual supervisory committee audit may be satisfied by one or more of the following:

(A) An audit of the credit union's financial statements performed by an independent, licensed, certified public accountant in accordance with GAAS;

(B) An ''agreed-upon procedures engagement'' performed by an independent, licensed, certified public accountant in accordance with applicable GAAS, which by itself or in combination with procedures performed by the supervisory committee, fulfills the required scope of the supervisory committee audit;

(C) A supervisory committee audit performed by an independent, compensated auditor other than an independent, licensed, certified public accountant in accordance with applicable GAAS, which by itself or in combination with procedures performed by the supervisory committee, fulfills the scope of a supervisory committee audit; or

(D) A supervisory committee audit by the supervisory committee or its designated, uncompensated representative, performed in accordance with applicable GAAS.

(ii) In all cases, an independent, compensated auditor is required to contract directly with the supervisory committee for the audit engagement and to deliver its written reports directly to the supervisory committee.

(d) *Engagement letter.* (1) The engagement of a compensated auditor to perform all or part of the scope of a supervisory committee audit shall be evidenced by an engagement letter. The engagement letter shall be signed by the compensated auditor and acknowledged therein by the supervisory committee prior to commencement of a supervisory committee audit. The engagement letter shall:

(i) Specify the terms, conditions, and objectives of engagement;

(ii) Identify the basis of accounting to be used, e.g., GAAP or an ''other comprehensive basis'' as defined in paragraph (a)(11) of this section;

(iii) Include an appendix setting forth the procedures to be performed (if not an opinion audit);

(iv) Specify the compensation to be paid for audit;

(v) Provide that the auditor shall, upon completion of the engagement, deliver to the supervisory committee written reports. All such reports may be based on work performed during the normal course of the audit; separate engagements are not required to report on the credit union's system of internal accounting control or its compliance with laws and regulations. The written reports shall consist of:

(A) The supervisory committee audit;

(B) Any internal control exceptions or reportable conditions noted in the internal control review phase of the audit; and

(C) Any irregularities or illegal acts noted during the audit;

(vi) Specify a date of delivery of the written reports required by paragraph (d)(1)(v) of this section; and

(vii) In the case of a compensated auditor, certify that NCUA staff or its designated representative will be provided unconditional access to a complete set of original working papers, as defined in paragraph (a)(17) of this section, either at the credit union or at a mutually agreeable location.

(2) In the case of a supervisory committee audit engagement which will address all of the financial statement elements and attributes prescribed in paragraph (c)(2) of this section, the engagement letter shall, in addition to the requirements of paragraph (d)(1) of this section, include a certification that the audit is a complete supervisory committee audit.

(3)(i) In the case of a supervisory committee audit engagement which will exclude any financial statement elements and attributes prescribed in paragraph (c)(2) of this section, the engagement letter shall, in addition to requirements of paragraph (d)(1) of this section:

(A) Specifically identify the elements and attributes excluded from the audit;

(B) State that, because of the exclusion(s), the resulting audit will not, in and of itself, fulfill the scope of a supervisory committee audit; and

(C) Caution that the supervisory committee will remain responsible for fulfilling the scope of a supervisory committee audit with respect to the excluded elements and attributes.

(ii) A compensated audit fully satisfies the requirements of a supervisory committee audit when it meets the requirements of paragraphs (b) and (c)(1) of this section and addresses all of the financial statement elements and attributes prescribed in paragraphs (c)(2) and (c)(3) of this section.

(e) *Audit reports and working paper access.* (1) Upon completion or receipt of the supervisory committee audit reports prescribed in paragraph (d)(1)(v) of this section, the supervisory committee shall provide the reports to the board of directors. The supervisory committee shall ensure that the compensated auditor and its reports comply with the terms of the engagement letter prescribed by paragraph (d) of this section. The supervisory committee shall, upon request, provide to the National Credit Union Administration a copy of each of the written reports received from the auditor.

(2) The supervisory committee shall be responsible for preparing and maintaining, or making available, a complete set of original working papers (as defined in paragraph (a)(17) of this section) supporting each supervisory committee audit. The supervisory committee shall, upon request, provide NCUA staff unconditional access to such complete set of original working papers either at the offices of the credit union or at a mutually agreeable location.

(3) Failure of a supervisory committee and/or its compensated auditor to comply with the requirements of this section, or the terms of an engagement letter required by this section, may be grounds for:

(i) The Regional Director to reject the supervisory committee audit; and

(ii) The NCUA to seek formal administrative sanctions against the supervisory committee and/or its compensated auditor pursuant to section 206(r) of the FCU Act, 12 U.S.C. 1786(r).

* * * * *

§ 701.13 [Amended]

3. Section 701.13 is amended in paragraph (a)(2) by revising ''§ 701.12(e)'' to read ''§ 701.12(g)''.

[FR Doc. 95–27045 Filed 11–1–95; 8:45 am]

BILLING CODE 7535–01–U

DEPARTMENT OF TRANSPORTATION

Federal Aviation Administration

14 CFR Part 39

[Docket No. 95–NM–120–AD]

Airworthiness Directives; McDonnell Douglas Model DC–10 Series Airplanes and Model MD–11F (Freighter) Airplanes

AGENCY: Federal Aviation Administration, DOT.

ACTION: Notice of proposed rulemaking (NPRM).

SUMMARY: This document proposes the adoption of a new airworthiness directive (AD) that is applicable to all Model DC–10 series airplanes and MD–11F airplanes. Among other things, this proposal would require repetitive leak checks of the lavatory drain system and repair, if necessary; would provide for

the option of revising the FAA-approved maintenance program to include a schedule of leak checks; and would require the installation of a cap on the flush/fill line. This proposal is prompted by continuing reports of damage to engines and airframes, separation of engines from airplanes, and damage to property on the ground, caused by ''blue ice'' that forms from leaking lavatory drain systems on transport category airplanes and subsequently dislodges from the airplane fuselage. The actions specified by this proposed AD are intended to prevent such damage associated with the problems of ''blue ice.''

DATES: Comments must be received by January 30, 1996.

ADDRESSES: Submit comments in triplicate to the Federal Aviation Administration (FAA), Transport Airplane Directorate, ANM–103, Attention: Rules Docket No. 95–NM–120–AD, 1601 Lind Avenue SW., Renton, Washington 98055–4056. Comments may be inspected at this location between 9 a.m. and 3 p.m., Monday through Friday, except Federal holidays.

The service information referenced in this AD may be obtained from McDonnell Douglas Corporation, 3855 Lakewood Boulevard, Long Beach, California 90846, Attention: Technical Publications Business Administration, Dept. C1–L51 (2–60). This information may be examined at the FAA, Transport Airplane Directorate, 1601 Lind Avenue SW., Renton, Washington; or at the FAA, Los Angeles Aircraft Certification Office, Transport Airplane Directorate, 3960 Paramount Boulevard, Lakewood, California.

FOR FURTHER INFORMATION CONTACT: Walter Eierman, Aerospace Engineer, Systems and Equipment Branch, ANM–130L, FAA, Los Angeles Aircraft Certification Office, 3960 Paramount Boulevard, Lakewood, California 90712; telephone (310) 627–5336; fax (310) 627–5210.

SUPPLEMENTARY INFORMATION:

Comments Invited

Interested persons are invited to participate in the making of the proposed rule by submitting such written data, views, or arguments as they may desire. Communications shall identify the Rules Docket number and be submitted in triplicate to the address specified above. All communications received on or before the closing date for comments, specified above, will be considered before taking action on the proposed rule. The proposals contained in this notice may be changed in light of the comments received.

Comments are specifically invited on the overall regulatory, economic, environmental, and energy aspects of the proposed rule. All comments submitted will be available, both before and after the closing date for comments, in the Rules Docket for examination by interested persons. A report summarizing each FAA-public contact concerned with the substance of this proposal will be filed in the Rules Docket.

Commenters wishing the FAA to acknowledge receipt of their comments submitted in response to this notice must submit a self-addressed, stamped postcard on which the following statement is made: ''Comments to Docket Number 95–NM–120–AD.'' The postcard will be date stamped and returned to the commenter.

Availability of NPRMs

Any person may obtain a copy of this NPRM by submitting a request to the FAA, Transport Airplane Directorate, ANM–103, Attention: Rules Docket No. 95–NM–120–AD, 1601 Lind Avenue SW., Renton, Washington 98055–4056.

Discussion

Over the past ten years, the FAA has received numerous reports of leakage from the lavatory service systems on in-service transport category airplanes that resulted in the formation of ''blue ice'' on the fuselage. In some instances, the ''blue ice'' subsequently dislodged from the fuselage and was ingested in to an engine. In several of these incidents, the ingestion of ''blue ice'' into an engine resulted in the loss of an engine fan blade, severe engine damage, and the in-flight shutdown of the engine. In two cases, the loads created by the ''blue ice'' being ingested into the engine resulted in the engine being physically torn from the airplane. Damage to an engine, or the separation of an engine from the airplane, could result in reduced controllability of the airplane.

The FAA also has received reports of at least three incidents of damage to the airframe caused by foreign objects from the forward toilet drain valve and flush/fill line on transport category airplanes. One report was of a dent on the right horizontal stabilizer leading edge on a Model 737 series airplane that was caused by ''blue ice'' that had formed from leakage through a flush/fill line; in this case, the flush/fill cap was missing from the line at the forward service panel. Numerous operators have stated that leakage from the flush/fill line is a significant source of problems associated with ''blue ice.'' Such damage caused by blue ice could adversely affect the integrity of the fuselage skin or surface structures.

Additionally, there have been numerous reports of ''blue ice'' dislodging from airplanes and striking houses, cars, buildings, and other occupied areas on the ground. Although there have been no reports of any person being struck by ''blue ice,'' the FAA considers that the large number of reported cases of ''blue ice'' falling from lavatory drain system is sufficient to support the conclusion that ''blue ice'' presents an unsafe condition to people on the ground. Demographic studies have shown that population density has increased around airports, and probably will continue to increase. These are populations that are at greatest risk of damage and injury due to ''blue ice'' dislodging from an airplane during descent. Without actions to ensure that leaks from the lavatory drain systems are detected and corrected in a timely manner, ''blue ice'' incidents could go unchecked and eventually someone may be struck, perhaps fatally, by falling ''blue ice.''

Current Rules

In response to these incidents, the FAA has issued several AD's applicable to various transport category airplanes:

1. *AD 86–05–07, Amendment 39–5250 (51 FR 7767, March 6, 1986):* Issued on February 26, 1986, this AD required periodic leak checks of all Model 727 aircraft forward lavatory drain systems (both dump valve and drain valve) at intervals not to exceed 15 months, and corrective action, if necessary.

2. *AD 94–23–10, Amendment 39–9073 (59 FR 59124, November 16, 1994):* Issued on November 9, 1994, this AD supersedes AD 86–05–07. It continues to require various leak checks of Boeing Model 727 series airplanes, but adds requirements for leak checks of other lavatory drain systems; provides for the option of revising the FAA-approved maintenance program to include a schedule of leak checks; requires the installation of a cap on the flush/fill line; and requires either a periodic leak check of the flush/fill line cap or replacement of the seals on both that cap and the toilet tank anti-siphon (check) valve.

3. AD 89–11–03, Amendment 39–6223 (54 FR 21933, May 22, 1989): Issued on May 9, 1989, this AD is applicable to certain Boeing Model 737–300 and –400 airplanes. It requires repetitive leak checks of the forward lavatory service system at intervals of 200 hours time-in-service, and repair, if necessary. That AD also provided operators with an optional action in lieu of performing

these periodic checks, which entails draining the system, locking the lavatory, and placarding the lavatory inoperative.

4. The FAA is planning to amend AD 89–11–03 to make it applicable to all Model 737 series airplanes, and to require additional inspections and other actions similar to those of AD 94–23–10.

5. The FAA is currently considering additional rulemaking to address the problems associated with ''blue ice'' on various other transport category airplanes, including those manufactured by Airbus, British Aerospace, Fokker, and Lockheed.

Discussion of the Proposed Rule

Since an unsafe condition has been identified that is likely to exist or develop on other products of this same type design, the FAA is proposing an AD would require the following actions:

Paragraph (a) of the proposed AD would require repetitive leak checks of the lavatory dump valve and drain valve (either service panel or in-line drain valve). The intervals for performing these leak checks would vary from 200 flight hours to 1,000 flight hours, depending upon what type of valve is installed at each location. The leak check of panel valves would be required to be performed with a minimum of 3 PSID applied across the valve. If any leak is discovered during the leak checks, operators would be required either to repair the leak and retest it, or drain the lavatory system and placard it inoperative until repairs can be made.

In cases where the panel valve has an inner seal, in lieu of pressure testing, operators are provided with the option of performing a visual inspection for damage or wear of the outer cap seal and seal surface. Any damaged parts detected would be required to be repaired or replaced prior to further flight, or the lavatory drained and placarded inoperative until repairs can be made.

Additionally, the flush/fill line cap would be required to be leak checked. In lieu of this particular check, operators may elect to replace the seals on the toilet tank anti-siphon (check) valve and flush/fill line cap.

Paragraph (b) of this proposed AD would provide an optional procedure for complying with the rule, which would entail revising the FAA-approved maintenance program to incorporate a schedule to conduct leak checks of the lavatory drain systems. The maintenance program change would also require that procedures be provided for accomplishing the visual inspections to detect leakage, for reporting leakage. Additionally, a training program must be provided to maintenance and servicing personnel, which would include information on ''blue ice'' awareness and the hazards of ''blue ice.''

Operators electing to comply with this option would be required to obtain approval from the Manager of the FAA's Los Angeles Aircraft Certification Office (ACO) for any revision to the leak check intervals. Requests for such revisions would be required to be accompanied by certain data when submitted to the ACO [through the appropriate FAA Principal Maintenance Inspector (PMI)] for approval. In paragraph (c) of the proposed rule, the FAA proposes a ''data collection format'' for these requests. Data submitted in accordance with the proposed format, if favorable to an increase in the leak check interval, will allow the FAA to justify increasing the leak check interval with assurance that the valves involved have the required reliability. The data provided also will be important in assisting the FAA in making future determinations of appropriate leak check intervals for new valves that have shown promising, but not conclusive, service data.

Paragraph (d) of the proposed AD also would require that all operators install a lever/lock cap on the flush/fill lines for all service panels. The cap must be either an FAA-approved cap or one installed in accordance with McDonnell Douglas Service Bulletin 38–65 or 38–39.

Paragraph (e) of the proposed AD would require that, before an operator places an airplane subject to the AD into service, the operator must establish a schedule for accomplishment of the subject leak checks. This provision is intended to ensure that transferred airplanes are inspected in accordance with the AD on the same basis as if there were continuity in ownership, and that scheduling of the leak checks for each airplane is not delayed or postponed due to a transfer of ownership. Airplanes that have previously been subject to the AD would have to be checked in accordance with either the previous operator's or the new operator's schedule, whichever would result in the earlier accomplishment date for that leak check. Other airplanes would have to be inspected before an operator could begin operating them or in accordance with a schedule approved by the FAA PMI, but within a period not exceeding 200 flight hours.

Economic Impact

There are approximately 435 Model DC–10 series airplanes and Model MD–11F airplanes of the affected design in the worldwide fleet. The FAA estimates that 285 airplanes of U.S. registry, and 18 U.S. operators, would be affected by this proposed AD.

For airplanes in the passenger configuration, the estimated costs associated with the requirements of this proposed AD would be as follows:

1. Leak checks. It would take approximately 4 work hours per airplane lavatory drain to accomplish each leak check, at an average labor cost of $60 per work hour. There normally are two drains per airplane. Depending upon the type of valve installed and the flight utilization rate of the airplane, airplanes could be required to be inspected as few as 3 times per year or as many as 15 times per year. Based on these figures, the total cost impact of the proposed leak check requirement on U.S. operators would be between $1,440 and $7,200 per airplane per year.

2. Inspections. Should an operator elect to perform the inspection of the service panel drain valve cap/door seal and seal mating surface, the inspection would take approximately 2 work hours to accomplish, at an average labor cost of $60 per work hour. Depending upon the type of valves installed and the flight utilization rate of the airplane, airplanes could be required to be inspected as few as 3 times per year or as many as 15 times per year. Based on these figures, the total cost impact of the proposed inspection requirement on U.S. operators would be between $360 and $1,800 per airplane per year.

3. Installation of cap on flush/fill line. The proposed installation would take approximately 2 work hours to accomplish, at an average labor cost of $60 per work hour. The cost of required parts is estimated to be $275 per airplane. There are 8 flush/fill lines per airplane. There currently are 175 passenger-configured airplanes of U.S. registry that would be subject to this requirement. Based on these figures, the total cost impact of the proposed installation requirement on U.S. operators would be $553,000, or $3,160 per airplane.

For airplanes in the freighter configuration, the estimated costs associated with the requirements of this proposed AD would be as follows:

1. Leak checks. It would take approximately 4 work hours per airplane lavatory drain to accomplish each leak check, at an average labor cost of $60 per work hour. There normally is one per airplane. Depending upon the type of valve installed and the flight utilization rate of the airplane, airplanes could be required to be inspected as few as 3 times per year or as many as 15 times per year. Based on these figures, the total cost impact of the proposed

leak check requirement on U.S. operators would be between $720 and $3,600 per airplane per year.

2. Inspections. Should an operator elect to perform the inspection of the service panel drain valve cap/door seal and seal mating surface, the inspection would take approximately 1 work hour to accomplish, at an average labor cost of $60 per work hour. Depending upon the type of valves installed and the flight utilization rate of the airplane, airplanes could be required to be inspected as few as 3 times per year or as many as 15 times per year. Based on these figures, the total cost impact of the proposed inspection requirement on U.S. operators would be between $180 and $900 per airplane per year.

3. Installation of cap on flush/fill line. The proposed installation would take approximately 2 work hours to accomplish, at an average labor cost of $60 per work hour. The cost of required parts is estimated to be $275 per airplane. There is 1 flush/fill lines per airplane. There currently are 110 freighter-configured airplanes of U.S. registry that would be subject to this requirement. Based on these figures, the total cost impact of the proposed installation requirement on U.S. operators would be $43,450, or $395 per airplane.

The number of required work hours, as indicated above, is presented as if the accomplishment of the actions proposed in this AD were to be conducted as ''stand alone'' actions. However, in actual practice, these actions could be accomplished coincidentally or in combination with normally scheduled airplane inspections and other maintenance program tasks. Therefore, the actual number of necessary ''additional'' work hours would be minimal in many instances. Additionally, any costs associated with special airplane scheduling should be minimal.

In addition to the costs discussed above, for those operators who elect to comply with proposed paragraph (b) of this AD action, the FAA estimates that it would take approximately 40 work hours per operator to incorporate the lavatory drain system leak check procedures into the maintenance programs, at an average labor cost of $60 per work hour. Based on these figures, the total cost impact of the proposed maintenance revision requirement of this AD on the 18 affected U.S. operators is estimated to be $43,200, or $2,400 per operator.

The ''total cost impact'' figures discussed above are based on assumptions that no operator has yet accomplished any of the proposed requirements of this AD action, and that no operator would accomplish those actions in the future if this AD were not adopted.

The FAA recognizes that the obligation to maintain aircraft in an airworthy condition is vital, but sometimes expensive. Because AD's require specific actions to address specific unsafe conditions, they appear to impose costs that would not otherwise be borne by operators. However, because of the general obligation of operators to maintain aircraft in an airworthy condition, this appearance is deceptive. Attributing those costs solely to the issuance of this AD is unrealistic because, in the interest of maintaining safe aircraft, prudent operators would accomplish the required actions even if they were not required to do so by the AD.

A full cost-benefit analysis has not been accomplished for this proposed AD. As a matter of law, in order to be airworthy, an aircraft must conform to its type design and be in a condition for safe operation. The type design is approved only after the FAA makes a determination that it complies with all applicable airworthiness requirements. In adopting and maintaining those requirements, the FAA has already made the determination that they establish a level of safety that is cost-beneficial. When the FAA, as in this AD, makes a finding of an unsafe condition, this means that the original cost-beneficial level of safety is no longer being achieved and that the required actions are necessary to restore that level of safety. Because this level of safety has already been determined to be cost-beneficial, a full cost-benefit analysis for this AD would be redundant and unnecessary.

Regulatory Impact

The regulations proposed herein would not have substantial direct effects on the States, on the relationship between the national government and the States, or on the distribution of power and responsibilities among the various levels of government. Therefore, in accordance with Executive Order 12612, it is determined that this proposal would not have sufficient federalism implications to warrant the preparation of a Federalism Assessment.

For the reasons discussed above, I certify that this proposed regulation (1) is not a ''significant regulatory action'' under Executive Order 12866; (2) is not a ''significant rule'' under the DOT Regulatory Policies and Procedures (44 FR 11034, February 26, 1979); and (3) if promulgated, will not have a significant economic impact, positive or negative, on a substantial number of small entities under the criteria of the Regulatory Flexibility Act. A copy of the draft regulatory evaluation prepared for this action is contained in the Rules Docket. A copy of it may be obtained by contacting the Rules Docket at the location provided under the caption **ADDRESSES.**

List of Subjects in 14 CFR Part 39

Air transportation, Aircraft, Aviation safety, Safety.

The Proposed Amendment

Accordingly, pursuant to the authority delegated to me by the Administrator, the Federal Aviation Administration proposes to amend part 39 of the Federal Aviation Regulations (14 CFR part 39) as follows:

PART 39—AIRWORTHINESS DIRECTIVES

1. The authority citation for part 39 continues to read as follows:

Authority: 49 U.S.C. 106(g), 40101, 40113, 44701.

§ 39.13 [Amended]

2. Section 39.13 is amended by adding the following new airworthiness directive:

McDonnell Douglas: Docket 95–NM–120–AD.

Applicability: All Model DC–10 series airplanes and Model MD–11F series airplanes, certificated in any category.

Note 1: This AD applies to each airplane identified in the preceding applicability provision, regardless of whether it has been modified, altered, or repaired in the area subject to the requirements of this AD. For airplanes that have been modified, altered, or repaired so that the performance of the requirements of this AD is affected, the owner/operator must use the authority provided in paragraph (f) of this AD to request approval from the FAA. This approval may address either no action, if the current configuration eliminates the unsafe condition; or different actions necessary to address the unsafe condition described in this AD. Such a request should include an assessment of the effect of the changed configuration on the unsafe condition addressed by this AD. In no case does the presence of any modification, alteration, or repair remove any airplane from the applicability of this AD.

Compliance: Required as indicated, unless previously accomplished.

To prevent engine damage , airframe damage, and/or hazard to persons or property on the ground as a result of ''blue ice'' that has formed from leakage of the lavatory drain system and dislodged from the airplane, accomplish the following:

Note 2: The toilet dump valve leak checks required by this AD may be performed by filling the toilet tank with water/rinsing fluid

to a level such that the bowl is approximately half full (at least 2 inches above the flapper in the bowl) and checking for leakage after a period of 5 minutes.

(a) Except as provided in paragraph (b) of this AD, accomplish the applicable procedures specified in paragraphs (a)(1), (a)(2), (a)(3), (a)(4), and (a)(5) of this AD. If the individual waste drain system panel incorporates more than one type of valve, the inspection interval that applies to that panel is determined by the component with the longest inspection interval allowed. Each of the components must be inspected or tested at that time at each service panel location.

(1) For each lavatory drain system that has a service panel drain valve installed, Kaiser Electroprecision part number series 0218–0032; or Shaw Aero Devices part number 1010100C–N (or higher dash number); or Shaw Aero Devices part number 1010100B–A–1, serial numbers 0115 through 0121, 0146 through 0164, and –0180 and higher; or Pneudraulics part number series 9527: Within 1,000 flight hours after the effective date of this AD, and thereafter at intervals not to exceed 1,000 flight hours, accomplish the following procedures:

(i) Conduct a leak check of the dump valve and drain valve. The service panel drain valve leak check must be performed with a minimum of 3 PSID applied across the valve. Both the inner door/closure device and the outer cap/door must be leak checked.

(ii) For service panel valves that have an inner seal: In lieu of pressure testing, the outer cap seal and seal surface may be visually inspected for damage or wear. Any damaged parts must be replaced or repaired prior to further flight, or the affected lavatory(s) must be drained and placarded inoperative until repairs can be accomplished.

(2) For each lavatory drain system that has a service panel drain valve installed, Kaiser Electroprecision part number series 0218–0026, or Shaw Aero Devices part number series 1010100C (except as called out in paragraph (a)(1) above), or Shaw Aero Devices part number 1010100B (except as called out in paragraph (a)(1) above): Within 600 flight hours after the effective date of this AD, and thereafter at intervals not to exceed 600 flight hours, accomplish the following procedures:

(i) Conduct a leak check of the dump valve and the service panel drain valve. The service panel drain valve leak check must be performed with a minimum 3 PSID applied across the valve. Both the inner door/closure device and the outer cap/door must be leak checked.

(ii) For service panel valves that have an inner seal: In lieu of pressure testing, the outer cap seal and seal surface may be visually inspected for damage or wear. Any damaged parts must be replaced or repaired prior to further flight, or the affected lavatory(s) must be drained and placarded inoperative until repairs can be accomplished.

(3) For each lavatory drain system not addressed in paragraph (a)(1) or (a)(2) of this AD: Within 200 flight hours after the effective date of this AD, and thereafter at intervals not to exceed 200 flight hours, accomplish the following procedures:

(i) Conduct a leak check of the dump valve and the service panel drain valve. The service panel drain valve leak check must be performed with a minimum 3 PSID applied across the valve. If the service panel drain valve has an inner door with a second positive seal, both the inner door and the outer cap/door must be leak checked.

(ii) For service panel valves that have an inner seal: In lieu of pressure testing, the outer cap seal and seal surface may be visually inspected for damage or wear. Any damaged parts must be replaced or repaired prior to further flight, or the affected lavatory(s) must be drained and placarded inoperative until repairs can be accomplished.

(4) For flush/fill lines: Within 5,000 flight hours after the effective date of this AD, and thereafter at intervals not to exceed 5,000 flight hours, accomplish either of the procedures specified in paragraph (a)(4)(i) or (a)(4)(ii) of this AD:

(i) Conduct a leak check of the flush/fill line cap. This leak check must be made with a minimum of 3 PSID applied across the cap. Or

(ii) Replace the seals on the toilet tank anti-siphon (check) valve and the flush/fill line cap. Additionally, perform a leak check of the toilet tank anti-siphon (check) valve with a minimum of 3 PSID across the valve.

Note 3: The Inspection/Check procedure specified in DC–10 Maintenance Manual, chapter 38–30–00, pages 601 and 602, dated June 1, 1993, may be referred to as guidance for the procedures required by this paragraph.

(5) If a leak is discovered during any leak check required by paragraph (a) of this AD, prior to further flight, accomplish either of the procedures specified in paragraph (a)(5)(i) or (a)(5)(ii) of this AD:

(i) Repair the leak and retest. Or

(ii) Drain the affected lavatory system and placard the lavatory inoperative until repairs can be accomplished.

(b) As an alternative to the requirements of paragraph (a) of this AD: Within 180 days after the effective date of this AD, revise the FAA-approved maintenance program to include the requirements specified in paragraphs (b)(1), (b)(2), (b)(3), (b)(4), (b)(5), and (b)(6) of this AD.

(1) For each lavatory drain system: Within 5,000 flight hours after revision of the maintenance program in accordance with paragraph (b) of this AD, and thereafter at intervals not to exceed 18 months, replace the valve seals. Any revision to this replacement schedule must be approved by the Manager, Los Angeles Aircraft Certification Office (ACO), FAA, Transport Airplane Directorate.

(2) Conduct periodic leak checks of the lavatory drain systems in accordance with the applicable schedule specified in paragraphs (b)(2)(i), (b)(2)(ii), and (b)(2)(iii) of this AD. If the individual waste drain system panel incorporates more than one type of valve, the inspection interval that applies to that panel is determined by the component with the longest inspection interval allowed. Each of the components must be inspected/tested at that time at each service panel location. Any revision to the leak check schedule must be approved by the Manager, Los Angeles ACO, FAA, Transport Airplane Directorate.

(i) For each lavatory drain system that has a service panel drain valve installed, Kaiser Electroprecision part number series 0218–0032, or Kaiser Electroprecision part number series 0218–0026, or Shaw Aero Devices part number series 1010100C, or Shaw Aero Devises part number series 1010100B, or Pneudraulics part number series 9527: Within 1,000 flight hours after revising the maintenance program in accordance with paragraph (b) of this AD, and thereafter at intervals not to exceed 1,000 flight hours, accomplish both of the following procedures:

(A) Conduct leak checks of the dump valve and service panel drain valve. The service panel drain valve leak check must be performed with a minimum of 3 PSID applied across the valve. Only the inner door/closure device of the service panel drain valve must be leak checked. And

(B) Visually inspect the service panel drain valve outer cap/door seal and seal mating surface for wear or damage that may cause leakage. Any worn or damaged seal must be replaced, and any damaged seal mating surface must be repaired or replaced, prior to further flight, in accordance with the valve manufacturer's maintenance manual.

(ii) For each lavatory drain system with a lavatory drain system valve that either incorporates ''donut'' assemblies (or substitute assemblies from another manufacturer) Kaiser Electroprecision part number 4259–20 or 4259–31, or incorporates Kaiser Roylyn part number 2651–231 or 2651–259 : Within 200 flight hours after revising the maintenance program in accordance with paragraph (b) of this AD, and thereafter at intervals not to exceed 200 flight hours, accomplish either one of the following procedures:

(A) Conduct leak checks of the dump valve and the service panel drain valve. The service panel drain valve leak check must be performed with a minimum 3 PSID applied across the valve. Both the donut and the outer cap/door must be leak checked.

(B) For service panel valves that have an inner seal: In lieu of pressure testing, visually inspect the outer cap seal and seal surface for damage or wear. Any damaged parts must be replaced or repaired prior to further flight, or the affected lavatory(s) must be drained and placarded inoperative until repairs can be accomplished.

(iii) For each lavatory drain system that incorporates any other type of approved valves: Within 400 flight hours after revising the maintenance program in accordance with paragraph (b) of this AD, and thereafter at intervals not to exceed 400 flight hours accomplish both of the following procedures:

(A) Conduct leak checks of the dump valve and the service panel drain valve. The service panel drain valve leak check must be performed with a minimum 3 PSID applied across the valve. If the service panel drain valve has an inner door/closure device with a second positive seal, only the inner door must be leak checked. And

(B) If the valve has an inner door/closure device with a second positive seal: Visually inspect the service panel drain valve outer

door/cap seal and seal mating surface for wear or damage that may cause leakage. Any worn or damaged seal must be replaced and any damaged seal mating surface must be repaired or replaced, prior to further flight, in accordance with the valve manufacturer's maintenance manual.

(3) For flush/fill lines: Within 5,000 flight hours after the effective date of this AD, and thereafter at intervals not to exceed 5,000 flight hours, accomplish either of the following procedures:

(i) Conduct a leak check of the flush/fill line cap. This leak check must be made with a minimum of 3 PSID applied across the cap. Or

(ii) Replace the seals on the toilet tank anti-siphon (check) valve and the flush/fill line cap. Additionally, perform a leak check of the toilet tank anti-siphon (check) valve with a minimum of 3 PSID across the valve.

Note 4: The Inspection/Check procedure specified in DC–10 Maintenance Manual, chapter 38–30–00, pages 601 and 602, dated June 1, 1993, may be referred to as guidance for the procedures required by this paragraph.

(4) Provide procedures for accomplishing visual inspections to detect leakage, to be conducted by maintenance personnel at intervals not to exceed 4 calendar days or 45 flight hours, which ever occurs later.

(5) Provide procedures for reporting leakage. These procedures shall provide that any ''horizontal blue streak'' findings must be reported to maintenance and that, prior to further flight, the leaking system shall either be repaired, or be drained and placarded inoperative.

(6) Provide training programs for maintenance and servicing personnel that include information on ''Blue Ice Awareness'' and the hazards of ''blue ice.''

(c) For operators who elect to comply with paragraph (b) of this AD: Any revision to (i.e., extension of) the leak check intervals required by paragraph (b) of this AD must be approved by the Manager, Los Angeles ACO, FAA, Transport Airplane Directorate. Requests for such revisions must be submitted to the Manager of the Los Angeles ACO through the FAA Principal Maintenance Inspector (PMI), and must include the following information:

(1) The operator's name;

(2) A statement verifying that all known cases/indications of leakage or failed leak tests are included in the submitted material;

(3) The type of valve (make, model, manufacturer, vendor part number, and serial number);

(4) The period of time covered by the data;

(5) The current FAA leak check interval;

(6) Whether or not seals have been replaced between the seal replacement intervals required by this AD;

(7) Whether or not leakage has been detected between leak check intervals required by this AD, and the reason for leakage (i.e., worn seals, foreign materials on sealing surface, scratched or damaged sealing surface or valve, etc.);

(8) Whether or not any leak check was conducted without first inspecting or cleaning the sealing surfaces, changing the seals, or repairing the valve. [If such activities have been accomplished prior to conducting the periodic leak check, that leak check shall be recorded as a ''failure'' for purposes of the data required for this request submission. The exception to this is the normally scheduled seal change in accordance with paragraph (b)(1) of this AD. Performing this scheduled seal change prior to a leak check will not cause that leak check to be recorded as a failure.]

Note 5: Requests for approval of revised leak check intervals may be submitted in any format, provided that the data give the same level of assurance specified in paragraph (c) of this AD.

Note 6: For the purposes of expediting resolution of requests for revisions to the leak check intervals, the FAA suggests that the requester summarize the raw data; group the data gathered from different airplanes (of the same model) and drain systems with the same kind of valve; and provide a recommendation from pertinent industry group(s) and/or the manufacturer specifying an appropriate revised leak check interval.

(d) For all airplanes: Within 5,000 flight hours after the effective date of this AD, install a lever/lock cap on the flush/fill lines for all lavatory service panels. The cap must be either an FAA-approved lever/lock cap; or a lever/lock cap installed in accordance with McDonnell Douglas Service Bulletin 38–65 (for Model DC–10 series airplanes) or Service Bulletin 38–39 [for Model MD–11F series airplanes (freighter)], as applicable.

(e) For any affected airplane acquired after the effective date of this AD: Before any operator places into service any airplane subject to the requirements of this AD, a schedule for the accomplishment of the leak checks required by this AD shall be established in accordance with either paragraph (e)(1) or (e)(2) of this AD, as applicable. After each leak check has been performed once, each subsequent leak check must be performed in accordance with the new operator's schedule, in accordance with either paragraph (a) or (b) of this AD as applicable.

(1) For airplanes previously maintained in accordance with this AD, the first leak check to be performed by the new operator must be accomplished in accordance with the previous operator's schedule or with the new operator's schedule, whichever would result in the earlier accomplishment date for that leak check.

(2) For airplanes that have not been previously maintained in accordance with this AD, the first leak check to be performed by the new operator must be accomplished prior to further flight, or in accordance with a schedule approved by the FAA PMI, but within a period not to exceed 200 flight hours.

(f) An alternative method of compliance or adjustment of the compliance time that provides an acceptable level of safety may be used if approved by the Manager, Los Angeles ACO, FAA, Transport Airplane Directorate. Operators shall submit their requests through an appropriate FAA PMI, who may add comments and then send it to the Manager, Los Angeles ACO.

Note 7: Information concerning the existence of approved alternative methods of compliance with this AD, if any, may be obtained from the Los Angeles ACO.

Note 8: For any valve that is not eligible for the extended leak check intervals of this AD: To be eligible for the leak check interval specified in paragraphs (a)(1) and (b)(2)(i), the service history data of the valve must be submitted to the Manager, Los Angeles ACO, FAA, Transport Airplane Directorate, with a request for an alternative method of compliance with this AD. The request should include an analysis of known failure modes for the valve, if it is an existing design, and known failure modes of similar valves. Additionally, the request should include an explanation of how design features will preclude these failure modes, results of qualification tests, and approximately 25,000 flight hours or 25,000 flight cycles of service history data, including a winter season, collected in accordance with the requirements of paragraph (c) of this AD or a similar program.

(g) Special flight permits may be issued in accordance with sections 21.197 and 21.199 of the Federal Aviation Regulations (14 CFR 21.197 and 21.199) to operate the airplane to a location where the requirements of this AD can be accomplished.

Issued in Renton, Washington, on October 26, 1995.

Darrell M. Pederson,

Acting Manager, Transport Airplane Directorate, Aircraft Certification Service.

[FR Doc. 95–27073 Filed 11–1–95; 8:45 am]

BILLING CODE 4910–13–U

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14 CFR Part 39

[Docket No. 95–NM–111–AD]

Airworthiness Directives; Boeing Model 737–100, –200, –300, –400, and –500 Series Airplanes

AGENCY: Federal Aviation Administration, DOT.

ACTION: Notice of proposed rulemaking (NPRM).

SUMMARY: This document proposes the supersedure of an existing airworthiness directive (AD), applicable to certain Boeing Model 737–300 and –400 series airplanes, that currently requires either repetitive leak checks on the forward lavatory service system and repair as necessary, or draining of the system and placarding the lavatory inoperative. This action would expand the applicability of the rule to include all Model 737 series airplanes. It would also add a requirement to perform leak checks of other lavatory drain systems; provide for the option of revising the FAA-approved maintenance program to include a schedule of leak checks; require the installation of a cap or vacuum break on the flush/fill line; and require either a periodic replacement of the seal for the cap and tank anti-siphon valve or periodic maintenance of the

vacuum break in the flush/fill line. This proposal is prompted by continuing reports of damage to engines and airframes, separation of engines from airplanes, and damage to property on the ground, caused by ''blue ice'' that forms from leaking lavatory drain systems on transport category airplanes and subsequently dislodges from the airplane fuselage. The actions specified by this proposed AD are intended to prevent such damage associated with the problems of ''blue ice.''

DATES: Comments must be received by January 30, 1996.

ADDRESSES: Submit comments in triplicate to the Federal Aviation Administration (FAA), Transport Airplane Directorate, ANM–103, Attention: Rules Docket No. 95–NM–111–AD, 1601 Lind Avenue SW., Renton, Washington 98055–4056. Comments may be inspected at this location between 9:00 a.m. and 3:00 p.m., Monday through Friday, except Federal holidays.

The service information referenced in the proposed rule may be obtained from Boeing Commercial Airplane Group, P.O. Box 3707, Seattle, Washington 98124–2207. This information may be examined at the FAA, Transport Airplane Directorate, 1601 Lind Avenue SW., Renton, Washington.

FOR FURTHER INFORMATION CONTACT: Don Eiford, Aerospace Engineer, Systems and Equipment Branch, ANM–130S, FAA, Seattle Aircraft Certification Office, 1601 Lind Avenue SW., Renton, Washington; telephone (206) 227–2778; fax (206) 227–1181.

SUPPLEMENTARY INFORMATION:

Comments Invited

Interested persons are invited to participate in the making of the proposed rule by submitting such written data, views, or arguments as they may desire. Communications shall identify the Rules Docket number and be submitted in triplicate to the address specified above. All communications received on or before the closing date for comments, specified above, will be considered before taking action on the proposed rule. The proposals contained in this notice may be changed in light of the comments received.

Comments are specifically invited on the overall regulatory, economic, environmental, and energy aspects of the proposed rule. All comments submitted will be available, both before and after the closing date for comments, in the Rules Docket for examination by interested persons. A report summarizing each FAA-public contact concerned with the substance of this proposal will be filed in the Rules Docket.

Commenters wishing the FAA to acknowledge receipt of their comments submitted in response to this notice must submit a self-addressed, stamped postcard on which the following statement is made: ''Comments to Docket Number 95–NM–111–AD.'' The postcard will be date stamped and returned to the commenter.

Availability of NPRMs

Any person may obtain a copy of this NPRM by submitting a request to the FAA, Transport Airplane Directorate, ANM–103, Attention: Rules Docket No. 95–NM–111–AD, 1601 Lind Avenue SW., Renton, Washington 98055–4056.

Discussion of the Existing AD

On May 9, 1989, the FAA issued AD 89–11–03, amendment 39–6223 (54 FR 21933, May 22, 1989), applicable to certain Boeing Model 737–300 and –400 airplanes, to require repetitive leak checks of the forward lavatory service system at intervals of 200 hours time-in-service, and repair, if necessary. That AD also provides operators with an optional action in lieu of performing these periodic checks, which entails draining the system, locking the lavatory, and placarding the lavatory inoperative. That action was prompted by several reports of leakage from the forward lavatory service system on in-service transport category airplanes that resulted in the formation of ''blue ice'' on the fuselage. In some instances, the ''blue ice'' subsequently dislodged from the fuselage and was ingested into an engine. In one incident, ''blue ice'' was ingested into the right engine and resulted in the loss of an engine fan blade, severe engine damage, and an in-flight shutdown of the engine. The requirements of that AD are intended to prevent such ingestion of ''blue ice'' into the engine, which could consequently result in damage to the engine and potential separation of the engine from the airplane.

New Incidents Prompting This Proposed Action

Since the issuance of that AD, the FAA has continued to receive reports of engine damage on transport category airplanes caused by ''blue ice'' that has formed from leaking lavatory waste systems or flush/fill lines and is ingested in to the engine(s) of the airplane.

The FAA also has received reports of at least three incidents of damage caused by foreign objects from the forward toilet drain valve and flush/fill line on certain airplanes. One report was of a dent on the right horizontal stabilizer leading edge on a Model 737 series airplane that was caused by ''blue ice'' that had formed from leakage through a flush/fill line; in this case, the flush/fill cap was missing from the line at the forward service panel. Numerous operators of Model 737 series airplanes have stated that leakage from the flush/fill line is a significant source of the type of ''blue ice'' problems addressed by the current AD action.

Additionally, there have been numerous reports of ''blue ice'' dislodging from airplanes and striking houses, cars, buildings, and other occupied areas on the ground. Although there have been no reports of any person being struck by ''blue ice,'' the FAA considers that the large number of reported cases of ''blue ice'' falling from lavatory drain system is sufficient to support the conclusion that ''blue ice'' presents an unsafe condition to people on the ground. Demographic studies have shown that population density has increased around airports, and probably will continue to increase. These are populations that are at greatest risk of damage and injury due to ''blue ice'' dislodging from an airplane during descent. Without actions to ensure that leaks from the lavatory drain systems are detected and corrected in a timely manner, ''blue ice'' incidents could go unchecked and eventually someone may be struck, perhaps fatally, by falling ''blue ice.''

In light of these continuing incidents and the data received concerning them, the FAA has determined that the inspections currently required by AD 89–11–03 are not adequate to positively address the unsafe condition(s) associated with ''blue ice.''

Additionally, since the lavatory systems on Model 737–100, –200, and –500 series airplanes are similar to those installed on Model 737–300 and –400 series airplanes (the models currently subject to AD 89–11–03), the FAA has determined that the potential unsafe condition exists with regard to all of these models.

Description of the Proposed Rule

Since an unsafe condition has been identified that is likely to exist or develop on other products of this same type design, the FAA proposes to issue a new AD to supersede AD 89–11–03.

Paragraph (a) of the proposed AD would require various repetitive leak checks of the dump valve and drain valve (either service panel or in-line drain valve). The intervals for performing these leak checks would vary from the currently required 200 flight hours to 4,500 flight hours,

depending upon the type of valve installed at each location. If any leak is discovered during a leak check, operators would be required either to repair the leak, or drain the lavatory system and placard the lavatory inoperative.

Proposed paragraph (a) also would require replacement of certain seals on the toilet tank anti-siphon (check) valve and flush/fill line cap; and replacement or cleaning of the vacuum break vent line.

Paragraph (b) of this proposed AD would provide an optional procedure for complying with the rule, which would entail revising the FAA-approved maintenance program to incorporate a schedule and procedure to conduct leak checks of the lavatory drain systems. However, operators electing to comply with this option would be required to accomplish the actions required by paragraph (a) of the proposal until their maintenance program is revised.

Additionally, operators electing to comply with this option would be required to obtain approval from the Manager of the FAA's Seattle Aircraft Certification Office (ACO) for any revision to the leak check intervals. Requests for such revisions must be accompanied by certain data when submitted to the ACO [through the appropriate FAA Principal Maintenance Inspector (PMI)] for approval. In paragraph (c) of the proposed rule, the FAA proposes a ''data collection format'' for these requests. Data submitted in accordance with the proposed format, if favorable to an increase in the leak check interval, will allow the FAA to justify increasing the leak check interval with assurance that the valves involved have the required reliability. The data provided also will be important in assisting the FAA in making future determinations of appropriate leak check intervals for new valves that have shown promising, but not conclusive, service data.

This proposal also includes a process for terminating the leak checks of waste drain systems for those operators who have installed in-line drain (ball) valves and elect to comply with the proposed AD via the ''maintenance program option.'' The FAA has determined that these types of valves are currently the best solution to the addressed problems, and provide very reliable operation. In combination with a normal maintenance program, these valves provide a system that is superior in reliability to the combination of less reliable valves and the proposed leak checks. Further, the FAA has been advised that additional versions of the in-line drain valve may become available for aft lavatory and flush/fill line applications. This could make it possible to install in-line drain type valves in all drain systems and flush/fill line locations. Assuming the new versions are designed, certified, and found acceptable, based upon the guidelines of NOTE 9 of the proposed AD, it eventually could be possible to obtain terminating action for all systems addressed by the AD.

Paragraph (d) of the proposed AD would require that a lever/lock cap or a vacuum break be installed for the forward, aft, and executive lavatories.

Paragraph (e) of the proposed AD would require that, before an operator places an airplane subject to the AD into service, the operator must establish a schedule for accomplishment of the leak checks. This provision is intended to ensure that transferred airplanes are inspected in accordance with the AD on the same basis as if there were continuity in ownership, and that scheduling of the leak checks for each airplane is not delayed or postponed due to a transfer of ownership. Airplanes that have previously been subject to the AD would have to be checked in accordance with either the previous operator's or the new operator's schedule, whichever would result in the earlier accomplishment date for that leak check. Other airplanes would have to be inspected before an operator could begin operating them or in accordance with a schedule approved by the FAA PMI, but within a period not exceeding 200 flight hours.

Related AD's

On November 9, 1994, the FAA issued AD 94–23–10, amendment 39–9073 (59 FR 59124, November 16, 1994), which is applicable to Boeing Model 727 series airplanes. That AD contains numerous requirements that are similar to those proposed in this action applicable to Model 737 series airplanes. In fact, several of the proposed requirements of this action are based on alternative methods of compliance that the FAA had previously approved for compliance with AD 94–23–10.

The FAA is currently considering additional rulemaking to address the problems associated with ''blue ice'' on other transport category airplanes.

Economic Impact

There are approximately 2,410 Model 737 series airplanes of the affected design in the worldwide fleet. The FAA estimates that 1,031 airplanes of U.S. registry and 110 U.S. operators would be affected by this proposed AD.

The proposed waste drain system leak check and outer cap inspection would take approximately 6 work hours per airplane to accomplish, at an average labor rate of $60 per work hour. Based on these figures, the total cost impact on U.S. operators of these proposed requirements of this AD is estimated to be $371,160, or $360 per airplane, per check/inspection.

Certain airplanes (i.e., those that have ''donut'' type of drain valve installed) may be required to be leak checked as many as 15 times each year. Certain other airplanes having other valve configurations would be required to be leak checked as few as 3 times each year. Some airplanes that have various combinations drain valves installed would require approximately 2 leak checks of one drain valve and 3 leak checks of the other drain valve each year. Based on these figures, the total annual (recurring) cost impact of the required repetitive leak checks on U.S. operators is estimated to be between $1,080 and $5,400 per airplane per year.

The FAA estimates that it would take approximately 1 work hour per airplane lavatory drain to accomplish a visual inspection of the service panel drain valve cap/door seal and seal mating surfaces, at an average labor cost of $60 per work hour. As with leak checks, certain airplanes would be required to be visually inspected as many as 15 times or as few as 3 times each year. Based on these figures, the total annual (recurring) cost impact of the required repetitive visual inspections on U.S. operators is estimated to be between $180 and $900 per airplane per year.

The proposed installation of the flush/fill line cap would take approximately 1 hour per cap to accomplish, at an average labor rate of $60 per work hour. The cost of required parts would be $275 per cap. There are an average of 2.5 caps per airplane. Based on these figures, the total cost impact on U.S. operators of these proposed requirements of this AD is estimated to be $863,463, or $838 per airplane.

The number of required work hours, as indicated above, is presented as if the accomplishment of the actions proposed in this AD were to be conducted as ''stand alone'' actions. However, in actual practice, these actions could be accomplished coincidentally or in combination with normally scheduled airplane inspections and other maintenance program tasks. Therefore, the actual number of necessary ''additional'' work hours would be minimal in many instances. Additionally, any costs associated with special airplane scheduling should be minimal.

In addition to the costs discussed above, for those operators who elect to

comply with proposed paragraph (b) of this proposed AD action, the FAA estimates that it would take approximately 40 work hours per operator to incorporate the lavatory drain system leak check procedures into the maintenance programs, at an average labor cost of $60 per work hour. Based on these figures, the total cost impact of the proposed maintenance revision requirement of this AD action on the 110 U.S. operators is estimated to be $264,000, or $2,400 per operator.

The total cost impact figures discussed above are based on assumptions that no operator has yet accomplished any of the current or proposed requirements of this AD action, and that no operator would accomplish those actions in the future if this AD were not adopted.

The FAA recognizes that the obligation to maintain aircraft in an airworthy condition is vital, but sometimes expensive. Because AD's require specific actions to address specific unsafe conditions, they appear to impose costs that would not otherwise be borne by operators. However, because of the general obligation of operators to maintain aircraft in an airworthy condition, this appearance is deceptive. Attributing those costs solely to the issuance of this AD is unrealistic because, in the interest of maintaining safe aircraft, prudent operators would accomplish the required actions even if they were not required to do so by the AD.

A full cost-benefit analysis has not been accomplished for this AD. As a matter of law, in order to be airworthy, an aircraft must conform to its type design and be in a condition for safe operation. The type design is approved only after the FAA makes a determination that it complies with all applicable airworthiness requirements. In adopting and maintaining those requirements, the FAA has already made the determination that they establish a level of safety that is cost-beneficial. When the FAA, as in this AD, makes a finding of an unsafe condition, this means that the original cost-beneficial level of safety is no longer being achieved and that the required actions are necessary to restore that level of safety. Because this level of safety has already been determined to be cost-beneficial, a full cost-benefit analysis for this AD would be redundant and unnecessary.

Regulatory Impact

The regulations proposed herein would not have substantial direct effects on the States, on the relationship between the national government and the States, or on the distribution of power and responsibilities among the various levels of government. Therefore, in accordance with Executive Order 12612, it is determined that this proposal would not have sufficient federalism implications to warrant the preparation of a Federalism Assessment.

For the reasons discussed above, I certify that this proposed regulation (1) is not a ''significant regulatory action'' under Executive Order 12866; (2) is not a ''significant rule'' under the DOT Regulatory Policies and Procedures (44 FR 11034, February 26, 1979); and (3) if promulgated, will not have a significant economic impact, positive or negative, on a substantial number of small entities under the criteria of the Regulatory Flexibility Act. A copy of the draft regulatory evaluation prepared for this action is contained in the Rules Docket. A copy of it may be obtained by contacting the Rules Docket at the location provided under the caption **ADDRESSES.**

List of Subjects in 14 CFR Part 39

Air transportation, Aircraft, Aviation safety, Safety.

The Proposed Amendment

Accordingly, pursuant to the authority delegated to me by the Administrator, the Federal Aviation Administration proposes to amend part 39 of the Federal Aviation Regulations (14 CFR part 39) as follows:

PART 39—AIRWORTHINESS DIRECTIVES

1. The authority citation for part 39 continues to read as follows:

Authority: 49 USC 106(g), 40101, 40113, 44701.

§ 39.13 [Amended]

2. Section 39.13 is amended by removing amendment 39–6223 (54 FR 21933, May 22, 1989), and by adding a new airworthiness directive (AD), to read as follows:

Boeing. Docket 95–NM–111–AD. Supersedes AD 89–11–03, Amendment 39–6223.

Applicability: Boeing Model 737 series 100, 200, 300, 400 and 500 airplanes, certificated in any category.

Note 1: This AD applies to each airplane identified in the preceding applicability provision, regardless of whether it has been modified, altered, or repaired in the area subject to the requirements of this AD. For airplanes that have been modified, altered, or repaired so that the performance of the requirements of this AD is affected, the owner/operator must use the authority provided in paragraph (f) of this AD to request approval from the FAA. This approval may address either no action, if the current configuration eliminates the unsafe condition; or different actions necessary to address the unsafe condition described in this AD. Such a request should include an assessment of the effect of the changed configuration on the unsafe condition addressed by this AD. In no case does the presence of any modification, alteration, or repair remove any airplane from the applicability of this AD.

Compliance: Required as indicated, unless previously accomplished.

To prevent engine damage, airframe damage, and/or hazard to persons or property on the ground as a result of ''blue ice'' that has formed from leakage of the lavatory drain system or flush/fill systems and dislodged from the airplane, accomplish the following:

(a) Except as provided by paragraph (b) of this AD, accomplish the applicable requirements of paragraphs (a)(1) through (a)(7) of this AD at the time specified in each paragraph. If the waste drain system incorporates more than one type of valve, only one of the waste drain system leak check procedures (the one that applies to the equipment with the longest leak check interval) must be conducted at each service panel location. The leak check of the in-line drain valve or service panel drain valve must be performed while the airplane is pressurized, unless another leak check method is approved under the provisions of paragraph (f) of this AD.

(1) For each lavatory drain system that has an in-line drain valve installed, Kaiser Electroprecision part number series 2651–329, 2651–334, or 2651–278: Within 4,500 flight hours after the effective date of this AD, and thereafter at intervals not to exceed 4,500 flight hours, accomplish the procedures specified in paragraphs (a)(1)(i) and (a)(1)(ii) of this AD:

(i) Conduct a leak check of the dump valve (in-tank valve that is spring loaded closed and operable by a T-handle at the service panel) and the in-line drain valve. The dump valve leak check must be performed by filling the toilet tank with water/rinsing fluid to a level such that the bowl is approximately half full (at least 2 inches above the flapper in the bowl) and checking for leakage after a period of 5 minutes. The in-line drain valve leak check must be performed with a minimum of 3 pounds per square inch differential pressure (PSID) applied across the valve.

(ii) If a service panel valve or cap is installed, perform a visual inspection of the service panel drain valve outer cap/door seal and the inner seal (if the valve has an inner door with a second positive seal), and the seal mating surfaces, for wear or damage that may allow leakage.

(2) For each lavatory drain system that has a service panel drain valve installed, Kaiser Electroprecision part number series 0218–0032; or Pneudraulics part number series 9527; or Shaw Aero part number/serial number as listed in Table 1 of this AD: Within 1,000 flight hours after the effective date of this AD, and thereafter at intervals not to exceed 1,000 flight hours, accomplish the requirements of paragraphs (a)(2)(i) and (a)(2)(ii) of this AD:

TABLE 1.—SHAW AERO VALVES APPROVED FOR 1,000 FLIGHT HOUR LEAK CHECK INTERVAL

Shaw Waste Drain Valve Part No.	Serial numbers of part number valve approved for 1,000-hour leak check interval
331 Series, 332 Series.	All.
10101000B–A	None.
10101000B–A–1	0207–0212, 0219, 0226 and higher.
10101000BA2	0130 and higher.
10101000B–B	None.
10101000BB2	0011 and higher.
10101000B–C	None.
10101000B–K	0007 and higher.
10101000BJ	0023 and higher.
10101B–577	0254 and higher.
10101B–577–1	None.
10101B587	0009 and higher.
10101000C–A	None.
10101000C–A–1	0277 and higher.
10101000CB	0061 and higher.
10101000C–G	None.
10101000C–J	None.
10101000C–J–2	None.
10101000CJ3	0014 and higher.
10101000CK	0317 and higher.
10101000C–M	0044 and higher.
10101000CN OR C–N.	3649 and higher.
10101000C–R	0191 and higher.
10101C739	0022 and higher.
Certain 10101000B valves.	Any of these ''B'' series valves that incorporate the improvements of Shaw Service Bulletin 10101000B–38–1, dated October 7, 1994, and are marked ''SBB38–1–58''.
Certain 10101000C valves.	Any of these ''C'' series valves that incorporate the improvements of Shaw Service Bulletin 10101000C–38–2 dated October 7, 1994, and are marked ''SBC38–2–58''.

Note 2: Table 1 is a comprehensive list of all approved Shaw Valves, including those valves approved for installation on airplanes other than the airplanes subject to this AD. (Therefore, being listed in this table does not necessarily mean that a particular valve is FAA-approved for installation on the Model 737 airplanes subject to this AD.)

(i) Conduct a leak check of the dump valve and drain valve. The dump valve leak check must be performed by filling the toilet tank with water/rinsing fluid to a level such that the bowl is approximately half full (at least 2 inches above the flapper in the bowl) and checking for leakage after a period of 5 minutes. The service panel drain valve leak check must be performed with a minimum of 3 PSID applied across the valve inner door/closure device.

(ii) Perform a visual inspection of the outer cap/door and seal mating surface for wear or damage that may cause leakage.

(3) For each lavatory drain system that has a service panel drain valve installed, Kaiser Electroprecision part number series 0218–0026; or Shaw Aero Devices part number series 10101000B or 10101000C [except as specified in paragraph (a)(2) of this AD]: Within 600 flight hours after the effective date of this AD, and thereafter at intervals not to exceed 600 flight hours, accomplish the requirements of paragraphs (a)(3)(i) and (a)(3)(ii) of this AD:

(i) Conduct a leak check of the dump valve and the service panel drain valve. The dump valve leak check must be performed by filling the toilet tank with water/rinsing fluid to a level such that the bowl is approximately half full (at least 2 inches above the flapper in the bowl) and checking for leakage after a period of 5 minutes. The service panel drain valve leak check must be performed with a minimum 3 PSID applied across the valve inner door/closure device.

(ii) Perform a visual inspection of the outer cap/door and seal mating surface for wear or damage that may cause leakage.

(4) For each lavatory drain system with a lavatory drain system valve that incorporates either ''donut'' assemblies (or substitute assemblies from another manufacturer) Kaiser Electroprecision part number 4259–20 or 4259–31, or incorporates Kaiser Roylyn part number 2651–194C, 2651–197C, 2651–216, 2651–219, 2651–235, 2651–256, 2651–258, 2651–259, 2651–260, 2651–275, 2651–282, 2651–286: Within 200 flight hours after the effective date of this AD, and thereafter at intervals not to exceed 200 flight hours, conduct leak checks of the dump valve and the service panel drain valve. The dump valve leak check must be performed by filling the toilet tank with water/rinsing fluid to a level such that the bowl is approximately half full (at least 2 inches above the flapper in the bowl) and checking for leakage after a period of 5 minutes. The service panel drain valve leak check must be performed with a minimum 3 PSID applied across the valve. Both the donut and the outer cap/door must be leak checked.

(5) For each lavatory drain system not addressed in paragraph (a)(1), (a)(2), (a)(3) or (a)(4) of this AD: Within 200 flight hours after the effective date of this AD, and thereafter at intervals not to exceed 200 flight hours, accomplish the requirements of paragraphs (a)(5)(i) and (a)(5)(ii) of this AD:

(i) Conduct a leak check of the dump valve and the service panel drain valve. The dump valve leak check must be performed by filling the toilet tank with water/rinsing fluid to a level such that the bowl is approximately half full (at least 2 inches above the flapper in the bowl) and checking for leakage after a period of 5 minutes. The service panel drain valve leak check must be performed with a minimum 3 PSID applied across the valve inner door/closure device.

(ii) Perform a visual inspection of the outer cap/door and seal mating surface for wear or damage that may cause leakage.

(6) For flush/fill lines: Within 5,000 flight hours after the effective date of this AD, and thereafter at intervals not to exceed 5,000 flight hours, perform the requirements of either paragraph (a)(6)(i) or (a)(6)(ii), as applicable.

(i) If a lever lock cap is installed on the flush/fill line of the subject lavatory, replace the seals on the toilet tank anti-siphon (check) valve and the flush/fill line cap. Prior to further flight after replacement, perform a leak check of the toilet tank anti-siphon (check) valve with a minimum of 3 PSID across the valve.

Note 3: The leak test procedure described in Boeing Service Letter 737–SL–38–3–A dated March 19, 1990, may be referred to as guidance for this test.

(ii) If a vacuum break, Monogram part number 3765–175 series or 3765–190 series, is installed on the subject lavatory, replace or clean the vent line in accordance with the manufacturer's maintenance manual.

(7) As a result of the leak checks and inspections required by this paragraph, or if evidence of leakage is found at any other time, accomplish the requirements of paragraph (a)(7)(i), (a)(7)(ii), or (a)(7)(iii), as applicable.

(i) If a leak is discovered, prior to further flight, repair the leak. Prior to further flight after repair, perform the leak test. Additionally, prior to returning the airplane to service, clean the surfaces adjacent to where the leakage occurred to clear them of any horizontal fluid residue streaks; such cleaning must be to the extent that any future appearance of a horizontal fluid residue streak will be taken to mean that the system is leaking again.

Note 4: For purposes of this AD, ''leakage'' is defined as any visible leakage, if observed during a leak test. At any other time (than during a leak test), ''leakage'' is defined as the presence of ice in the service panel, or horizontal fluid residue streaks/ice trails originating at the service panel. The fluid residue is usually, but not necessarily, blue in color.

(ii) If any worn or damaged seal is found, or if any damaged seal mating surface is found, prior to further flight, repair or replace it in accordance with the valve manufacturer's maintenance manual.

(iii) In lieu of performing the requirements of paragraph (a)(7)(i) or (a)(7)(ii): Prior to further fight, drain the affected lavatory system and placard the lavatory inoperative until repairs can be accomplished.

(b) As an alternative to the requirements of paragraph (a) of this AD, operators may revise the FAA-approved maintenance program to include the requirements specified in paragraphs (b)(1) through (b)(7) of this AD. However, until the FAA-approved maintenance program is so revised, operators must accomplish the leak test requirements of paragraph (a) of this AD. Incorporation of the requirements specified in paragraphs (b)(1)(i), (b)(2)(i), (b)(4), (b)(5), (b)(6) and (b)(7) of this AD into the operator's FAA-approved maintenance program constitutes terminating action for waste drain systems that incorporate the ball valves specified in paragraph (b)(1)(i) of this AD. However, the requirements of this AD that affect flush/fill lines and waste drain systems with valves different from those listed in paragraph (b)(1)(i) remain in effect.

(1) Replace the valve seals in accordance with the applicable schedule specified in paragraphs (b)(1)(i) and (b)(1)(ii) of this AD.

(i) For each lavatory drain system that has an in-line drain valve installed, Kaiser Electroprecision part number series 2651–329, 2651–334, or 2651–278: Replace the seals within 5,000 flight hours after revision of the maintenance program in accordance with paragraph (b) of this AD, and thereafter at intervals not to exceed 48 months.

(ii) For each lavatory drain system that has any other type of drain valve: Replace the seals within 5,000 flight hours after revision of the maintenance program in accordance with paragraph (b) of this AD, and thereafter at intervals not to exceed 18 months. Any revision to this replacement schedule must be approved by the Manager, Seattle Aircraft Certification Office (ACO), FAA, Transport Airplane Directorate.

(2) Conduct periodic leak checks of the lavatory drain systems in accordance with the applicable schedule specified in paragraphs (b)(2)(i), (b)(2)(ii), (b)(2)(iii), and (b)(2)(iv) of this AD. Only one of the waste drain system leak check procedures (the one that applies to the equipment with the longest leak check interval) must be conducted at each service panel location. The leak check of the in-line drain valve or service panel drain valve shall be performed while the airplane is pressurized, unless another leak check method is approved under the provisions of paragraph (g) of this AD.

(i) For each lavatory drain system, that has an in-line drain valve installed, Kaiser Electroprecision part number series 2651–329, 2651–334, or 2651–278: Within 5,000 flight hours after the effective date of this AD, and thereafter at intervals not to exceed 24 months or 5,000 flight hours, whichever occurs later, accomplish the procedures specified in paragraphs (b)(2)(i)(A) and (b)(2)(i)(B) of this AD:

(A) Conduct a leak check of the dump valve (in-tank valve that is spring loaded closed and operable by a T-handle at the service panel) and the in-line drain valve. The dump valve leak check must be performed by filling the toilet tank with water/rinsing fluid to a level such that the bowl is approximately half full (at least 2 inches above the flapper in the bowl) and checking for leakage after a period of 5 minutes. The in-line drain valve leak check must be performed with a minimum of 3 pounds per square inch differential pressure (PSID) applied across the valve.

(B) If a service panel valve or cap is installed, perform a visual inspection of the service panel drain valve outer cap/door seal and the inner seal (if the valve has an inner door with a second positive seal), and the seal mating surfaces, for wear or damage that may allow leakage. Any worn or damaged seal must be replaced, and any damaged seal mating surfaces repaired or replaced, prior to further flight, in accordance with the valve manufacturer's maintenance manual.

(ii) For each lavatory drain system that has a service panel drain valve installed, Kaiser Electroprecision part number series 0218–0032, or Kaiser Electroprecision part number series 0218–0026, or Shaw Aero Devices part number series 10101000B, 10101000C, 331-series, 332-series, or Pneudraulics part number series 9527: Within 1,000 flight hours after revising the maintenance program in accordance with paragraph (b) of this AD, and thereafter at intervals not to exceed 1,000 flight hours, accomplish the following:

(A) Conduct leak checks of the dump valve and service panel drain valve . The dump valve leak check must be performed by filling the toilet tank with water/rinsing fluid to a level such that the bowl is approximately half full (at least 2 inches above the flapper in the bowl) and checking for leakage after a period of 5 minutes. The service panel drain valve leak check must be performed with a minimum of 3 PSID applied across the valve inner door/closure device. Any revision to this leak check schedule must be approved by the Manager, Seattle ACO, FAA, Transport Airplane Directorate.

(B) Perform a visual inspection of the outer cap/door and seal mating surface for wear or damage that may cause leakage. Any worn or damaged seal must be replaced and any damaged seal mating surface must be repaired or replaced, prior to further flight, in accordance with the valve manufacturer's maintenance manual.

(iii) For each lavatory drain system with a lavatory drain system valve that incorporates either ''donut'' assemblies (or substitute assemblies from another manufacturer) Kaiser Electroprecision part number 4259–20 or 4259–31, or incorporates Kaiser Roylyn part number 2651–194C, 2651–197C, 2651–216, 2651–219, 2651–235, 2651–256, 2651–258, 2651–259, 2651–260, 2651–275, 2651–282, 2651–286: Within 200 flight hours after revising the maintenance program in accordance with paragraph (b), and thereafter at intervals not to exceed 200 flight hours, conduct leak checks of the dump valve and the service panel drain valve. Both the donut and the outer cap/door must be leak checked. The dump valve leak check must be performed by filling the toilet tank with water/rinsing fluid to a level such that the bowl is approximately half full (at least 2 inches above the flapper in the bowl) and checking for leakage after a period of 5 minutes. The service panel drain valve leak check must be performed with a minimum 3 PSID applied across the valve.

(iv) For each lavatory drain system that incorporates any other type of approved valves: Within 400 flight hours after revising the maintenance program in accordance with paragraph (b) of this AD, and thereafter at intervals not to exceed 400 flight hours, accomplish the following:

(A) Conduct leak checks of the dump valve and the service panel drain valve. The dump valve leak check must be performed by filling the toilet tank with water/rinsing fluid to a level such that the bowl is approximately half full (at least 2 inches above the flapper in the bowl) and checking for leakage after a period of 5 minutes. The service panel drain valve leak check must be performed with a minimum 3 PSID applied across the valve. If the service panel drain valve has an inner door with a second positive seal, only the inner door must be tested.

(B) Perform a visual inspection of the outer cap/door and seal mating surface for wear or damage that may cause leakage. Any worn or damaged seal must be replaced and any damaged seal mating surface must be repaired or replaced, prior to further flight, in accordance with the valve manufacturer's maintenance manual.

(3) For flush/fill lines: Within 5,000 flight hours after the effective date of this AD, and thereafter at intervals not to exceed 5,000 flight hours, perform the requirements of either paragraph (b)(3)(i) or (b)(3)(ii), as applicable.

(i) If a lever lock cap is installed on the flush/fill line of the subject lavatory, replace the seals on the toilet tank anti-siphon (check) valve and the flush/fill line cap. Perform a leak check of the toilet tank anti-siphon (check) valve with a minimum of 3 PSID across the valve.

Note 5: The leak test procedure of Boeing Service Letter 737–SL–38–3–A, dated March 19, 1990, May be referred to as guidance for this test.

(ii) If a vacuum break, Monogram part number 3765–175 series, or 3765–190 series, is installed on the subject lavatory, replace or clean the vent line in accordance with the manufacturer's maintenance manual.

(4) Provide procedures for accomplishing visual inspections to detect leakage, to be conducted by maintenance personnel at intervals not to exceed 4 calendar days or 45 flight hours, which ever occurs later.

(5) Provide procedures for reporting leakage. These procedures shall provide that any ''horizontal blue streak'' findings must be reported to maintenance and that, prior to further flight, the leaking system shall either be repaired, or be drained and placarded inoperative.

(i) For systems incorporating an in-line drain valve, Kaiser Electroprecision part number series 2651–329, 2651–334 or 2651–278: The reporting procedures also must include the following:

(A) Provisions for reporting to maintenance any instances of abnormal operation of the valve handle for the in-line drain valve, as observed by service personnel during normal servicing.

(B) For instances where abnormal operation of the valve handle is identified, instructions to accomplish, prior to further flight, either the in-line drain valve manufacturer's recommended troubleshooting procedures and correction of the discrepancy; or drainage of the lavatory system and placarding it inoperative until the correction of the discrepancy can be accomplished.

(ii) If the drain system also includes an additional service panel drain valve, Kaiser Electroprecision part number series 0218–0026 or 0218–0032 or Shaw Aero Devices series 10101000B, series 10101000C, series 331, or series 332, or Pneudraulics part number series 9527: Indications of abnormal operation of the valve handle for the in-line drain valve need not be addressed immediately if a leak check of the service panel drain valve indicates no leakage or other discrepancy. In these cases, repair of the in-line drain valve must be accomplished within 1,000 flight hours after the leak check of the additional service panel drain valve.

(6) Provide training programs for maintenance and servicing personnel that

include information on ''Blue Ice Awareness'' and the hazards of blue ice.

(7) If a leak is discovered during a leak check required by this paragraph; or if evidence of leakage is found at any other time; or if repair/replacement of a valve (or valve parts) is required as a result of a visual inspection required in accordance with this AD; prior to further flight, accomplish the requirements of paragraph (b)(7)(i), (b)(7)(ii), or (b)(7)(iii), as applicable.

Note 6: For purposes of this AD, ''leakage'' is defined as any visible leakage, if observed during a leak test. At any other time (than during a leak test), ''leakage'' is defined as the presence of ice in the service panel, or horizontal fluid residue streaks/ice trails originating at the service panel. The fluid residue is usually, but not necessarily, blue in color.

(i) Repair the leak and, prior to further flight after repair, perform a leak test. Additionally, prior to returning the airplane to service, clean the surfaces adjacent to where the leakage occurred to clear them of any horizontal fluid residue streaks; such cleaning must be to the extent that any future appearance of a horizontal fluid residue streak will be taken to mean that the system is leaking again.

(ii) Repair or replace the valve or valve parts.

(iii) In lieu of either paragraph (b)(7)(i) or (b)(7)(ii), drain the affected lavatory system and placard the lavatory inoperative until repairs can be accomplished.

(c) For operators who elect to comply with paragraph (b) of this AD: Any revision to (i.e., extension of) the leak check intervals required by paragraph (b) of this AD must be approved by the Manager, Seattle ACO, FAA, Transport Airplane Directorate. Requests for such revisions must be submitted to the Manager of the Seattle ACO through the FAA Principal Maintenance Inspector (PMI), and must include the following information:

(1) The operator's name;

(2) A statement verifying that all known cases/indications of leakage or failed leak tests are included in the submitted material;

(3) The type of valve (make, model, manufacturer, vendor part number, and serial number);

(4) The period of time covered by the data;

(5) The current FAA leak check interval;

(6) Whether or not seals have been replaced between the seal replacement intervals required by this AD;

(7) Whether or not leakage has been detected between leak check intervals required by this AD, and the reason for leakage (i.e., worn seals, foreign materials on sealing surface, scratched or damaged sealing surface or valve, etc.);

(8) Whether or not any cleaning, repairs, or seal changes were performed on the valve prior to conducting the leak check. [If such activities have been accomplished prior to conducting the periodic leak check, that leak check shall be recorded as a ''failure'' for purposes of the data required for this request submission. The exception to this is the normally-scheduled seal change in accordance with paragraph (b)(1) of this AD. Performing this scheduled seal change prior to a leak check will not cause that leak check to be recorded as a failure. Debris removal done as part of normal maintenance for previous flights is also allowable and will not cause a leak check to be recorded as a failure].

Note 7: Requests for approval of revised leak check intervals may be submitted in any format, provided the data give the same level of assurance specified in paragraph (c) above. Results of an Environmental Quality Analysis (EQA) examination and leak test on a randomly selected high-flight-hour valve, with seals that have not been replaced during a period of use at least as long as the desired interval, may be considered a valuable supplement to the service history data, reducing the amount of service data that would otherwise be required.

Note 8: For the purposes of expediting resolution of requests for revisions to the leak check intervals, the FAA suggests that the requester summarize the raw data; group the data gathered from different airplanes (of the same model) and drain systems with the same kind of valve; and provide a recommendation from pertinent industry group(s) and/or the manufacturer specifying an appropriate revised leak check interval.

Note 9: In cases where changes are made to a valve design approved for an extended leak test interval such that a new valve dash number or part number is established for the valve, the FAA may not require extensive service history data to approve the new valve to the same leak check interval as the previous valve design. Similarity of design, the nature of the design changes, the nature and amount of testing, and like factors will be considered by the FAA to determine the appropriate data requirements and leak check interval for a new or revised valve based upon an existing design.

Note 10: If other valve designs achieve the reliability (as demonstrated by equivalent service history and data) of the valves cited in paragraph (b)(2)(i) of this AD, the FAA may consider granting terminating action using the same guidelines.

(d) For all airplanes: Unless already accomplished, within 5,000 flight hours after the effective date of this AD, perform the actions specified in either paragraph (d)(1) or (d)(2) of this AD:

(1) Install a FAA approved lever/lock cap on the flush/fill lines for the forward, aft, and executive lavatories. Or

(2) Install a vacuum break, Monogram part number 3765–175 series or 3765–190 series, in the flush/fill lines for the forward, aft, and executive lavatories.

(e) For any affected airplane acquired after the effective date of this AD: Before any operator places into service any airplane subject to the requirements of this AD, a schedule for the accomplishment of the leak checks required by this AD shall be established in accordance with either paragraph (e)(1) or (e)(2) of this AD, as applicable. After each leak check has been performed once, each subsequent leak check must be performed in accordance with the new operator's schedule, in accordance with either paragraph (a) or (b) of this AD as applicable.

(1) For airplanes previously maintained in accordance with this AD, the first leak check to be performed by the new operator must be accomplished in accordance with the previous operator's schedule or with the new operator's schedule, whichever would result in the earlier accomplishment date for that leak check.

(2) For airplanes that have not been previously maintained in accordance with this AD, the first leak check to be performed by the new operator must be accomplished prior to further flight, or in accordance with a schedule approved by the FAA PMI, but within a period not to exceed 200 flight hours.

(f) Alternative method(s) of compliance with this AD:

(1) An alternative method of compliance or adjustment of the compliance time that provides an acceptable level of safety may be used if approved by the Manager, Seattle ACO, FAA, Transport Airplane Directorate. Operators shall submit their requests through an appropriate FAA PMI, who may add comments and then send it to the Manager, Seattle ACO.

(2) Alternative methods of compliance previously approved for AD 89–11–03, which permit a 4,500-flight hour interval between leak checks of the forward waste drain system for those operators installing the modifications specified in Boeing Service Bulletin 737–38–1028, dated July 18, 1991, and later revisions, are considered acceptable alternative methods of compliance with the requirements of only paragraph (a)(1) of this AD. For those operators, the other requirements of this AD are still required to be accomplished. All other alternate methods of compliance approved for AD 89–11–03 are terminated and are no longer in effect.

Note 11: Information concerning the existence of approved alternative methods of compliance with this AD, if any, may be obtained from the Seattle ACO.

Note 12: For any valve that is not eligible for the extended leak check intervals of this AD: To be eligible for the leak check interval specified in paragraphs (a)(1), (a)(2), (b)(2)(i), and (b)(2)(ii), the service history data of the valve must be submitted to the Manager, Seattle ACO, FAA, Transport Airplane Directorate, with a request for an alternative method of compliance. The request should include an analysis of known failure modes for the valve, if it is an existing design, and known failure modes of similar valves, with an explanation of how design features will preclude these failure modes, results of qualification tests, and approximately 25,000 flight hours or 25,000 flight cycles of service history data which include a winter season, collected in accordance with the requirements of paragraph (c) above, or a similar program. One of the factors that the FAA will consider in approving alternative valve designs is whether the valve meets Boeing Specification S417T105 or 10–62213. However, meeting the Boeing specification is not a prerequisite for approval of alternative valve designs.

(g) Special flight permits may be issued in accordance with sections 21.197 and 21.199 of the Federal Aviation Regulations (14 CFR 21.197 and 21.199) to operate the airplane to a location where the requirements of this AD can be accomplished.

Issued in Renton, Washington, on October 26, 1995.

Darrell M. Pederson,

Acting Manager, Transport Airplane Directorate, Aircraft Certification Service.

[FR Doc. 95–27074 Filed 11–1–95; 8:45 am]

BILLING CODE 4910–13–U

14 CFR Part 39

[Docket No. 95–SW–14–AD]

Airworthiness Directives; Eurocopter Deutschland GmbH (ECD) Model BO–105, BO–105A, BO–105C, BO–105S, BO–105LS A–1 Helicopters

AGENCY: Federal Aviation Administration, DOT.

ACTION: Notice of proposed rulemaking (NPRM).

SUMMARY: This document proposes the adoption of a new airworthiness directive (AD) that is applicable to Eurocopter Deutschland GmbH (ECD) (Eurocopter) Model BO–105, BO–105A, BO–105C, BO–105S, BO–105LS A–1 helicopters. This proposal would require a ground test and inspection of the tandem hydraulic switch-over system (switch-over system) for component wear and parts replacement, if necessary. This proposal is prompted by incidents involving Model BO–105 series helicopters in which, during the switch-over from Hydraulic System 1 to Hydraulic System 2, a 3-inch drop in the collective occurred, caused by component wear in the switch-over system. The actions specified by the proposed AD are intended to detect switch-over system component wear, which could result in a sudden drop in the collective and a sudden loss of altitude.

DATES: Comments must be received by January 2, 1996.

ADDRESSES: Submit comments in triplicate to the Federal Aviation Administration (FAA), Office of the Assistant Chief Counsel, Attention: Rules Docket No. 95–SW–14–AD, 2601 Meacham Blvd., Room 663, Fort Worth, Texas 76137. Comments may be inspected at this location between 9:00 a.m. and 3:00 p.m., Monday through Friday, except Federal holidays.

The service information referenced in the proposed rule may be obtained from American Eurocopter Corporation, 2701 Forum Drive, Grand Prairie, Texas 75053–4005. This information may be examined at the FAA, Office of the Assistant Chief Counsel, 2601 Meacham Blvd., Room 663, Fort Worth, Texas.

FOR FURTHER INFORMATION CONTACT: Mr. Robert McCallister, Aerospace Engineer, Rotorcraft Standards Staff, Rotorcraft Directorate, FAA, 2601 Meacham Blvd., Fort Worth, Texas 76137, telephone (817) 222–5121, fax (817) 222–5961.

SUPPLEMENTARY INFORMATION:

Comments Invited

Interested persons are invited to participate in the making of the proposed rule by submitting such written data, views, or arguments as they may desire. Communications should identify the Rules Docket number and be submitted in triplicate to the address specified above. All communications received on or before the closing date for comments, specified above, will be considered before taking action on the proposed rule. The proposals contained in this notice may be changed in light of the comments received.

Comments are specifically invited on the overall regulatory, economic, environmental, and energy aspects of the proposed rule. All comments submitted will be available, both before and after the closing date for comments, in the Rules Docket for examination by interested persons. A report summarizing each FAA-public contact concerned with the substance of this proposal will be filed in the Rules Docket.

Commenters wishing the FAA to acknowledge receipt of their comments submitted in response to this notice must submit a self-addressed, stamped postcard on which the following statement is made: ''Comments to Docket No. 95–SW–14–AD.'' The postcard will be date stamped and returned to the commenter.

Availability of NPRMs

Any person may obtain a copy of this NPRM by submitting a request to the FAA, Office of the Assistant Chief Counsel, Attention: Rules Docket No. 95–SW–14–AD, 2601 Meacham Blvd., Room 663, Fort Worth, Texas 76137.

Discussion

The Luftfahrt-Bundesamt (LBA), which is the airworthiness authority for the Federal Republic of Germany, has notified the FAA that an unsafe condition may exist on Eurocopter Deutschland GmbH (ECD) (Eurocopter) Model BO–105 series helicopters. The LBA advises that excessive wear on tandem hydraulic units may exist on certain Eurocopter Model BO–105 series helicopters. Wear of more than 0.5mm in the switch-over components may prevent normal switching from Hydraulic System 1 to Hydraulic System 2.

Eurocopter has issued MBB-Helicopters Alert Service Bulletin ASB–BO 105–40–102, dated April 20, 1989, applicable to all BO–105 series helicopters with tandem hydraulic units, part numbers 105–45021, 105–45023, or 105–45028, having valve body manifolds D133–756, D133–756E, ZE1–126–I, ZE2–126, or ZE2–126–1, installed on Hydraulic System 1 or Hydraulic System 2. This service bulletin specifies procedures for a ground test of the tandem hydraulic switch-over system to determine whether excessive wear exists. The LBA classified this service bulletin as mandatory and issued AD 89–123/2 MBB, dated October 25, 1989, in order to assure the continued airworthiness of these helicopters in Germany.

This helicopter model is manufactured in Germany and is type certificated for operation in the United States under the provisions of § 21.29 of the Federal Aviation Regulations (14 CFR 21.29) and the applicable bilateral airworthiness agreement. Pursuant to this bilateral airworthiness agreement, the LBA has kept the FAA informed of the situation described above. The FAA has examined the findings of the LBA, reviewed all available information, and determined that AD action is necessary for products of this type design that are certificated for operation in the United States.

There has been a recent occurrence in the United States that may have been attributable to this out-of-tolerance condition. Since an unsafe condition has been identified that is likely to exist or develop on other Eurocopter Model BO–105, BO–105A, BO–105C, BO–105S, BO–105LS A–1 helicopters of the same type design registered in the United States, the proposed AD would require that a ground test be conducted of the tandem hydraulic switch-over system to detect component wear and require parts replacement if necessary. The actions would be required to be accomplished in accordance with the service bulletin described previously.

The FAA estimates that 165 helicopters of U.S. registry would be affected by this proposed AD, that it would take approximately 5 work hours per helicopter to accomplish the proposed actions, and that the average labor rate is $60 per work hour. Required parts, if needed, would cost approximately $750. Based on these figures, the total cost impact of the proposed AD on U.S. operators is estimated to be $173,250.

The regulations proposed herein would not have substantial direct effects on the States, on the relationship between the national government and

the States, or on the distribution of power and responsibilities among the various levels of government. Therefore, in accordance with Executive Order 12612, it is determined that this proposal would not have sufficient federalism implications to warrant the preparation of a Federalism Assessment.

For the reasons discussed above, I certify that this proposed regulation (1) is not a ''significant regulatory action'' under Executive Order 12866; (2) is not a ''significant rule'' under the DOT Regulatory Policies and Procedures (44 FR 11034, February 26, 1979); and (3) if promulgated, will not have a significant economic impact, positive or negative, on a substantial number of small entities under the criteria of the Regulatory Flexibility Act. A copy of the draft regulatory evaluation prepared for this action is contained in the Rules Docket. A copy of it may be obtained by contacting the Rules Docket at the location provided under the caption **ADDRESSES.**

List of Subjects in 14 CFR Part 39

Air transportation, Aircraft, Aviation safety, Safety.

The Proposed Amendment

Accordingly, pursuant to the authority delegated to me by the Administrator, the Federal Aviation Administration proposes to amend part 39 of the Federal Aviation Regulations (14 CFR part 39) as follows:

PART 39—AIRWORTHINESS DIRECTIVES

1. The authority citation for part 39 continues to read as follows:

Authority: 49 USC 106(g), 40101, 40113, 44701.

§ 39.13 [Amended]

2. Section 39.13 is amended by adding a new airworthiness directive to read as follows:

Eurocopter Deutschland GmbH (ECD): Docket No. 95–SW–14–AD.

Applicability: Model BO–105, BO–105A, BO–105C, BO–105S, and BO–105LS A–1 helicopters with tandem hydraulic units, part numbers (P/N) 105–45021, 105–45023, or 105–45028, having valve body manifolds D133–756, D133–756E, ZE1–126–I, ZE2–126, or ZE2–126–1, installed on either Hydraulic System 1 or Hydraulic System 2, certificated in any category.

Note 1: This AD applies to each helicopter identified in the preceding applicability provision, regardless of whether it has been modified, altered, or repaired in the area subject to the requirements of this AD. For helicopters that have been modified, altered, or repaired so that the performance of the requirements of this AD is affected, the owner/operator must use the authority provided in paragraph (b) to request approval from the FAA. This approval may address either no action, if the current configuration eliminates the unsafe condition, or different actions necessary to address the unsafe condition described in this AD. Such a request should include an assessment of the effect of the changed configuration on the unsafe condition addressed by this AD. In no case does the presence of any modification, alteration, or repair remove any helicopter from the applicability of this AD.

Compliance: Required as indicated, unless accomplished previously.

To detect switch-over system component wear, which could result in a sudden drop in the collective and a sudden loss of altitude, accomplish the following:

(a) Within 50 hours time-in-service after the effective date of this AD, and thereafter at intervals not to exceed 1 year, conduct a ground test of the tandem hydraulic system and an inspection of the switch-over system linkage for wear in accordance with section A, ''Inspections Required,'' of the Accomplishment Instructions of MBB-Helicopters Alert Service Bulletin ASB–BO 105–40–102, dated April 20, 1989. Based on the results of this ground test, accomplish the following as appropriate:

(1) If no switch-over reactions occur during the ground test, no further action is required.

(2) If any switch-over reaction occurs during the ground test, perform the additional inspections of the switch-over system and perform the required maintenance procedures in accordance with section B, ''Work Procedure,'' of the Accomplishment Instructions of MBB-Helicopters Alert Service Bulletin ASB–BO 105–40–102, dated April 20, 1989.

(b) An alternative method of compliance or adjustment of the compliance time that provides an acceptable level of safety may be used when approved by the Manager, Rotorcraft Standards Staff, Rotorcraft Directorate, FAA. Operators shall submit their requests through an FAA Principal Maintenance Inspector, who may concur or comment and then send it to the Manager, Rotorcraft Standards Staff.

Note 2: Information concerning the existence of approved alternative methods of compliance with this AD, if any, may be obtained from the Rotorcraft Standards Staff.

(c) Special flight permits may be issued in accordance with §§ 21.197 and 21.199 of the Federal Aviation Regulations (14 CFR 21.197 and 21.199) to operate the helicopter to a location where the requirements of this AD can be accomplished.

Issued in Fort Worth, Texas, on October 26, 1995.

Eric Bries,

Acting Manager, Rotorcraft Directorate, Aircraft Certification Service.

[FR Doc. 95–27202 Filed 11–1–95; 8:45 am]

BILLING CODE 4910–13–U

14 CFR Part 39

[Docket No. 95–SW–01–AD]

Airworthiness Directives; Societe Nationale Industrielle Aerospatiale and Eurocopter France Model SA–365N, N1, and N2 Helicopters

AGENCY: Federal Aviation Administration, DOT.

ACTION: Notice of proposed rulemaking (NPRM).

SUMMARY: This document proposes the adoption of a new airworthiness directive (AD) that is applicable to Societe Nationale Industrielle Aerospatiale and Eurocopter France (Eurocopter France) Model SA–365N, N1, and N2 helicopters. This proposal would require an inspection of the door jettison systems to detemine if the handle shafts are locked to the jettison systems. If the inspection indicates the handle shafts are locked to the jettison systems, the proposal would require installation of a snapwire on the jettison systems and a visual inspection of the door jettison handles to determine whether two spring pins are installed, and installation of a second spring pin, if necessary. If the initial inspection indicates that the handle shafts are not locked to the jettison systems, the proposal would require replacement of the sheared spring pin with two spring pins. This proposal is prompted by a factory inspection performed by the manufacturer that revealed that the forward passenger door jettison handles may have been fitted with one spring pin instead of two spring pins at the door jettison handle attachment points. The actions specified by the proposed AD are intended to prevent a loss of the doors in flight and subsequent damage to the horizontal stabilizer, main fin, or lateral fins.

DATES: Comments must be received by January 2, 1996.

ADDRESSES: Submit comments in triplicate to the Federal Aviation Administration (FAA), Office of the Assistant Chief Counsel, Attention: Rules Docket No. 95–SW–01–AD, 2601 Meacham Blvd., Room 663, Fort Worth, Texas 76137. Comments may be inspected at this location between 9:00 a.m. and 3:00 p.m., Monday through Friday, except Federal holidays.

The service information referenced in the proposed rule may be obtained from American Eurocopter Corporation, 2701 Forum Drive, Grand Prairie, Texas 75053–4005. This information may be examined at the FAA, Office of the Assistant Chief Counsel, 2601 Meacham Blvd., Room 663, Fort Worth, Texas.

FOR FURTHER INFORMATION CONTACT: Mr. Richard Monschke, Aerospace Engineer, Rotorcraft Standards Staff, FAA, Rotorcraft Directorate, 2601 Meacham Blvd., Fort Worth, Texas 76137, telephone (817) 222–5116, fax (817) 222–5961.

SUPPLEMENTARY INFORMATION:

Comments Invited

Interested persons are invited to participate in the making of the proposed rule by submitting such written data, views, or arguments as they may desire. Communications should identify the Rules Docket number and be submitted in triplicate to the address specified above. All communications received on or before the closing date for comments, specified above, will be considered before taking action on the proposed rule. The proposals contained in this notice may be changed in light of the comments received.

Comments are specifically invited on the overall regulatory, economic, environmental, and energy aspects of the proposed rule. All comments submitted will be available, both before and after the closing date for comments, in the Rules Docket for examination by interested persons. A report summarizing each FAA-public contact concerned with the substance of this proposal will be filed in the Rules Docket.

Commenters wishing the FAA to acknowledge receipt of their comments submitted in response to this notice must submit a self-addressed, stamped postcard on which the following statement is made: ''Comments to Docket No. 95–SW–01–AD.'' The postcard will be date stamped and returned to the commenter.

Availability of NPRMs

Any person may obtain a copy of this NPRM by submitting a request to the FAA, Office of the Assistant Chief Counsel, Attention: Rules Docket No. 95–SW–01–AD, 2601 Meacham Blvd., Room 663, Fort Worth, Texas 76137.

Discussion

The Direction Generale de l'Aviation Civile (DGAC), which is the airworthiness authority for France, recently notified the FAA that an unsafe condition may exist on Eurocopter France Model SA–365N, N1, and N2 helicopters. The DGAC advises that the forward passenger doors may be lost in flight due to the failure of the manufacturer to install the appropriate number of spring pins in the door jettison mechanism.

Eurocopter France has issued Eurocopter Service Bulletin SA 365, No. 01.38, dated January 31, 1994, which generally applies to all model SA–365 helicopters except for the SA–365C, that specifies an inspection of the door jettison systems to detemine if the handle shafts are locked to the jettison systems. If the inspection indicates the handle shafts are locked to the jettison systems, the proposal would require installation of a snapwire on the jettison systems and a visual inspection of the door jettison handles to determine whether two spring pins are installed, and installation of a second spring pin, if necessary. If the initial inspection indicates that the handle shafts are not locked to the jettison systems, the proposal would require replacement of the sheared spring pin with two spring pins. The DGAC classified this service bulletin as mandatory and issued Airworthiness Directive 94–052–035(B), dated March 2, 1994, in order to assure the continued airworthiness of these helicopters in France.

This helicopter model is manufactured in France and is type certificated for operation in the United States under the provisions of section 21.29 of the Federal Aviation Regulations (14 CFR 21.29) and the applicable bilateral airworthiness agreement. Pursuant to this bilateral airworthiness agreement, the DGAC has kept the FAA informed of the situation described above. The FAA has examined the findings of the DGAC, reviewed all available information, and determined that AD action is necessary for products of this type design that are certificated for operation in the United States.

Since an unsafe condition has been identified that is likely to exist or develop on other Eurocopter France Model SA–365N, N1, and N2 helicopters of the same type design registered in the United States, the proposed AD would require, within 30 days after the effective date of the AD, an inspection of the door jettison systems to detemine if the handle shafts are locked to the jettison systems. If the inspection indicates the handle shafts are locked to the jettison systems, the proposed AD would require installation of a snapwire on the jettison systems and within 500 hours time-in-service, a visual inspection of the door jettison handles to determine whether two spring pins are installed, and installation of a second spring pin, if necessary. If the initial inspection indicates that the handle shafts are not locked to the jettison systems, the proposal would require, before further flight, replacement of the sheared spring pin with two spring pins. This proposal is prompted by a factory inspection performed by the manufacturer that revealed that the forward passenger door jettison handles may have been fitted with one spring pin instead of two spring pins at the door jettison handle attachment points. The actions would be required to be accomplished in accordance with the service bulletin described previously.

The FAA estimates that 27 helicopters of U.S. registry would be affected by this proposed AD, that it would take approximately 8 work hours per helicopter to accomplish the proposed actions, and that the average labor rate is $60 per work hour. Required parts would cost approximately $230 per helicopter. Based on these figures, the total cost impact of the proposed AD on U.S. operators is estimated to be $19,170.

The regulations proposed herein would not have substantial direct effects on the States, on the relationship between the national government and the States, or on the distribution of power and responsibilities among the various levels of government. Therefore, in accordance with Executive Order 12612, it is determined that this proposal would not have sufficient federalism implications to warrant the preparation of a Federalism Assessment.

For the reasons discussed above, I certify that this proposed regulation (1) is not a ''significant regulatory action'' under Executive Order 12866; (2) is not a ''significant rule'' under the DOT Regulatory Policies and Procedures (44 FR 11034, February 26, 1979); and (3) if promulgated, will not have a significant economic impact, positive or negative, on a substantial number of small entities under the criteria of the Regulatory Flexibility Act. A copy of the draft regulatory evaluation prepared for this action is contained in the Rules Docket. A copy of it may be obtained by contacting the Rules Docket at the location provided under the caption **ADDRESSES.**

List of Subjects in 14 CFR Part 39

Air transportation, Aircraft, Aviation safety, Safety.

The Proposed Amendment

Accordingly, pursuant to the authority delegated to me by the Administrator, the Federal Aviation Administration proposes to amend part 39 of the Federal Aviation Regulations (14 CFR part 39) as follows:

PART 39—AIRWORTHINESS DIRECTIVES

1. The authority citation for part 39 continues to read as follows:

Authority: 49 USC 106(g), 40101, 40113, 44701.

§ 39.13 [Amended]

Section 39.13 is amended by adding a new airworthiness directive to read as follows:

Societe Nationale Industrielle Aerospatiale and Eurocopter France (Eurocopter France): Docket No. 95–SW–01–AD.

Applicability: Model SA–365N, N1, and N2 helicopters, serial numbers (S/N) 6008, 6033, 6083, 6084, 6085, 6093, 6120 and higher that have not been modified in accordance with Avis De Modification (AMS) 365A07–56B15, certificated in any category.

Note 1: This AD applies to each helicopter identified in the preceding applicability provision, regardless of whether it has been modified, altered, or repaired in the area subject to the requirements of this AD. For helicopters that have been modified, altered, or repaired so that the performance of the requirements of this AD is affected, the owner/operator must use the authority provided in paragraph (b) to request approval from the FAA. This approval may address either no action, if the current configuration eliminates the unsafe condition, or different actions necessary to address the unsafe condition described in this AD. Such a request should include an assessment of the effect of the changed configuration on the unsafe condition addressed by this AD. In no case does the presence of any modification, alteration, or repair remove any helicopter from the applicability of this AD.

Compliance: Required as indicated, unless accomplished previously.

To prevent a loss of the doors in flight and subsequent damage to the horizontal stabilizer, main fin, or lateral fins, accomplish the following:

(a) Within 30 days after the effective date of this AD, left and right forward passenger door jettison systems, cut the snapwire on the door jettison handle, and, without turning the handle completely, determine whether the handle is locked to the jettison mechanism, in accordance with paragraph 1C1 of Eurocopter Service Bulletin (SB) SAA365, No. 01.38, dated January 31, 1994. Based on the results of this procedure, perform the following as appropriate:

(1) If the door jettison handle shaft is locked to the jettison system,

(i) Install the snapwire (annealed copper safety wire, black enameled, 0.3mm diameter) on each door jettison handle in accordance with paragraph 1C2(a) of SB SA 365, No. 01.38, dated January 31, 1994.

(ii) Within 500 hours time-in-service (TIS) after the effective date of this AD, in accordance with paragraphs 1C3 and 1C3(a) of SB SA 365, No. 01.38, dated January 31, 1994, accomplish the following:

(A) Remove the doors and remove the trimming panels from the passenger door posts. Visually inspect each door to determine whether two spring pins are installed to fasten each jettison handle.

(B) If only one spring pin is installed, install a second spring pin.

(C) Reinstall the trimming panel

(D) Reinstall the door

(E) Install the snapwire as specified in paragraph (a)(1)(i) of this AD.

(2) If a door jettison handle shaft is not locked to the jettison system, before further flight, accomplish the following in accordance with paragraphs 1C3 and 1C3(b) of SB SA 365, No. 01.38, dated January 31, 1994:

(i) Remove the door and the trimming panel

(ii) Remove the sheared spring pin.

(iii) Replace the sheared spring pin with two spring pins

(iv) Reinstall the door trimming panels

(v) Reinstall the door

(vi) Install the snapwire as described in paragraph (a)(1)(i) of this AD.

(b) An alternative method of compliance or adjustment of the compliance time that provides an acceptable level of safety may be used when approved by the Manager, Rotorcraft Standards Staff, FAA, Rotorcraft Directorate. Operators shall submit their requests through an FAA Principal Maintenance Inspector, who may concur or comment and then send it to the Manager, Rotorcraft Standards Staff.

Note 2: Information concerning the existence of approved alternative methods of compliance with this AD, if any, may be obtained from the Rotorcraft Standards Staff.

(c) Special flight permits may be issued in accordance with §§ 21.197 and 21.199 of the Federal Aviation Regulations (14 CFR 21.197 and 21.199) to operate the helicopter to a location where the requirements of this AD can be accomplished.

Issued in Fort Worth, Texas, on October 26, 1995.

Eric Bries,

Acting Manager, Rotorcraft Directorate, Aircraft Certification Service.

[FR Doc. 95–27203 Filed 11–1–95; 8:45 am]

BILLING CODE 4910–13–U

DEPARTMENT OF THE INTERIOR

Minerals Management Service

30 CFR Part 250

RIN 1010–AB99

Training of Lessee and Contractor Employees Engaged in Oil and Gas and Sulphur Operations in the Outer Continental Shelf (OCS)

AGENCY: Minerals Management Service (MMS), Interior.

ACTION: Proposed rule.

SUMMARY: This proposed rule would amend MMS regulations governing the training of lessee and contractor employees engaged in oil and gas and sulphur operations in the OCS. MMS is amending these regulations to simplify the training options, to provide the flexibility to use alternative training methods, and to provide the option to allow third parties to certify schools.

DATES: MMS will consider all comments we receive by January 31, 1996. We will begin reviewing comments at that time and may not fully consider comments we receive after January 31, 1996.

ADDRESSES: Mail or hand-carry comments to the Department of the Interior; Minerals Management Service; Mail Stop 4700; 381 Elden Street; Herndon, Virginia 22070–4817; Attention: Chief, Engineering and Standards Branch.

FOR FURTHER INFORMATION CONTACT: Jerry Richard, Information and Training Branch, telephone (703) 787–1582 or FAX (703) 787–1575.

SUPPLEMENTARY INFORMATION: On August 5, 1994, MMS published an advance notice of proposed rulemaking (ANPR) concerning the training of lessee and contractor employees engaged in drilling, well-completion, well-workover, well-servicing, or production operations in the OCS. The ANPR suggested five options to improve the existing regulations at 30 CFR Part 250, Subpart O, Training. The ANPR also encouraged the public to suggest other viable options.

During the comment period, which ended on October 19, 1994, MMS held a workshop to provide a mechanism to exchange ideas about improvements to subpart O. MMS announced the September 29, 1994, workshop in the Federal Register on August 31, 1994.

MMS received 33 comments from industry, support contractors, training schools, and academia. Some comments favored a third-party certification option and others favored the current system with minor changes to be more flexible.

MMS agrees that it should be more flexible in training options and it should allow a third party to relive some of the burden to the Government. After analyzing the comments received from the ANPR and the workshop and after analyzing our future goals, MMS determined that it needs to amend the existing training regulations.

The revision would:

—Streamline the current regulations by 80 percent

—Provide flexibility to use alternative training methods

—Provide the option for a third party to certify schools

MMS is developing the criteria for approving third parties to certify training schools and their programs. We plan to have the criteria available for the

final rule because we anticipate that this proposed rule will generate interest from potential third parties.

Once MMS begins shifting, to a third party, the burden of certifying the numerous training schools and their frequent training plan updates, the Federal Government will save resources. Although the third party will probably charge each potential school a service fee, MMS anticipates that market competition will make the fee nonminal. The students may receive a slight tuition increase to absorb the fee. MMS anticipates that any cost increase to industry may be offset by the increased flexibility provided by this proposed rule.

This rulemaking is the first step to change the way MMS regulates worker qualifications and training. Our vision for the future of the training program is for more of a partnership with industry by using a performance-based system. Under a performance-based system, MMS would shift the responsibility to industry for establishing training methods. However, the training that employees receive would need to continue to provide safety for personnel and the environment. MMS could appraise the adequacy of industry's training through methods that could include random inspections, tests or drills, and by analyzing accidents or near accidents. MMS is just beginning to write performance-based regulations and we would appreciate your comments on this subject.

MMS is also considering opening up the option for industry to integrate its training requirements into a safety and environmental management plan (SEMP). You may know that the objective of the SEMP program is to reduce the risk of accidents and pollution from OCS operations by incorporating safety management practices into facility management and procedures. Using a SEMP may provide an alternative means to fulfill some of industry's regulatory obligations. Please send us your ideas and comments on the future of using a SEMP.

We hope that you find this proposed rule clear, and more user-oriented. MMS may conduct a workshop on this proposed training rule. We will notify you under separate notice.

Author: Sharon Buffington, Engineering and Standards Branch, MMS, prepared this document.

Executive Order (E.O.) 12866

This proposed rule is not a significant rule under E.O. 12866.

Regulatory Flexibility Act

The Department of the Interior (DOI) determined that this proposed rule will not have a significant effect on a substantial number of small entities. In general, the entities that engage in offshore activities are not considered small due to the technical and financial resources and experience necessary to safely conduct such activities.

Paperwork Reduction Act

This proposed rule does not add any new collection requirements. The Office of Management and Budget (OMB) previously approved the collection requirements under OMB No. 1010–0078.

Takings Implication Assessment

The DOI determined that this proposed rule does not represent a governmental action capable of interference with constitutionally protected property rights. Thus, DOI does not need to prepare a Takings Implication Assessment pursuant to E.O. 12630, Government Action and Interference with Constitutionally Protected Property Rights.

E.O. 12778

The DOI certified to OMB that this proposed rule meets the applicable civil justice reform standards provided in Sections 2(a) and 2(b)(2) of E.O. 12778.

National Environmental Policy Act

The DOI determined that this action does not constitute a major Federal action significantly affecting the quality of the human environment; therefore, an Environmental Impact Statement is not required.

List of Subjects in 30 CFR Part 250

Continental shelf, Environmental impact statements, Environmental protection, Government contracts, Incorporation by reference, Investigations, Mineral royalties, Oil and gas development and production, Oil and gas exploration, Oil and gas reserves, Penalties, Pipelines, Public lands—mineral resources, Public lands—rights-of-way, Reporting and recordkeeping requirements, Sulphur development and production, Sulphur exploration, Surety bonds.

Dated: September 5, 1995.

Bob Armstrong,

Assistant Secretary, Land and Minerals Management.

For the reasons in the preamble, Minerals Management Service (MMS) proposes to amend 30 CFR part 250 as follows:

PART 250—OIL AND GAS AND SULPHUR OPERATIONS IN THE OUTER CONTINENTAL SHELF

1. The authority citation for part 250 continues to read as follows:

Authority: 43 U.S.C. 1334.

2. Subpart O is revised to read as follows:

Subpart O—Training

Sec.

Subpart O—Training

§ 250.209 Question index table.

(a) For your convenience in locating information, we grouped the questions in table 250.209(b) as follows:

(1) General training requirements—§§ 250.211 through 250.216.

(2) Departures from training requirements—§§ 250.217 through 250.222.

(3) Training program certifications—§§ 250.223 through 250.229.

(4) MMS testing information—§§ 250.230 through 250.232.

(b) Table 250.209(b) is as follows:

TABLE 250.209(b)

Definitions	§ 250.210
What is MMS's goal for well-control and production safety systems training?	§ 250.211
What type of training must I provide for my employees?	§ 250.212
What documentation must I provide to trainees?	§ 250.213
How often must I provide training to my employees and for how many hours?	§ 250.214
Where must I get training for my employees?	§ 250.215
Where can I find training guidelines for other topics?	§ 250.216
Can I get an exception to the training requirements?	§ 250.217
Can my employees change job certification?	§ 250.218
What must I do if I have temporary employees or on-the-job trainees?	§ 250.219
What must manufacturer's representatives in production safety systems do?	§ 250.220
May I use alternative training methods?	§ 250.221
What is MMS looking for when it reviews an alternative training program?	§ 250.222
Who may certify a training organization to teach?	§ 250.223
How long is a training organization's certification valid for?	§ 250.224
What information must a training organization submit to MMS (or an MMS-approved third party)?	§ 250.225
What additional requirements must a training organization follow?	§ 250.226
What are MMS's requirements for the written test?	§ 250.227
What are MMS's requirements for the hands-on simulator and well test?	§ 250.228
What elements must a basic course cover?	§ 250.229
If MMS tests employees at my worksite, what must I do?	§ 250.230
If MMS tests trainees at a training organization's facility, what must occur?	§ 250.231
Why might MMS conduct its own tests?	§ 250.232

§ 250.210 Definitions.

Terms used in this subpart have the following meaning:

Alternative training methods includes self-paced or team-based training that may use a computer-based system such as compact disc interactive (CDI), compact disc read only memory (CDROM), or Laser Discs.

Completed training means that the trainee successfully met MMS's requirements for that training.

Employees means direct employees and contract employees of lessees.

Floorhands means rotary helpers, derrickmen, or their equivalent.

I or *you* means the lessee or contractor engaged in oil, gas or sulphur operations in the Outer Continental Shelf (OCS).

Installing includes installing and replacing the equipment.

Lessee means the person, organization, agent or designee authorized to explore, develop and produce leased deposits.

Maintaining includes preventive maintenance, routine repair, and replacing defective components.

Operating includes testing, adjusting, calibrating, and recording test and calibration results for the equipment.

Production Safety Systems employees means employees engaged in installing, repairing, testing, maintaining, or operating surface or subsurface safety devices and the platform employee who is responsible for production operations.

Supervisors means the driller, toolpusher, operator's representative, or their equivalent.

Third-Third Certifier means a party that MMS has approved to certify a training organization or training program.

Training includes a basic or an advanced class in well-control for drilling, well-completion/well-workover, well-servicing, and production safety systems.

Training organization means a party certified by MMS or an MMS-approved third-party certifier to teach well-control for drilling, well-completion/well-workover, well-servicing, and production safety systems.

Well-completion/well-workover (WO) well-control includes small tubing.

Well-servicing (WS) well-control includes snubbing and coil tubing.

Well-workover rig means a drilling rig used for well completions.

§ 250.211 What is MMS's goal for well-control and production safety systems training?

The goal is to ensure that employees who work in the following areas receive training that results in safe and clean operations:

(a) Drilling well-control;

(b) WO well-control;

(c) WS well-control; and

(d) Production Safety Systems.

§ 250.212 What type of training must I provide for my employees?

You must provide training for your employees in accordance with the following table:

Type of employee	Training requirements	Comments
Drilling floorhand	Drilling well control.[1]	
	Complete a well control drill at the job site within the time limit prescribed by company operating procedures.[2]	You must log the time it took to complete the drill in the driller's log and furnish the time to the floorhand.
	Participate in well control drills under subpart D of this part.[2]	You must record the date and time it took to complete each drill in the driller's log.
	Receive copy of a drilling well control manual.[2]	
Drilling supervisor	Drilling well control course.[1]	
	Qualify to direct well control operations.[1]	
WO floorhands	WO well control course.[1]	
	Complete the qualifying testing consisting of a well control drill at the job site within the time limit set by company procedures.[2]	You must record the date and time it took to complete each drill in the operations log.
	Participate in weekly well control drills under subparts E and F of this part.[2]	
	Receive a well control manual.[2]	
WO supervisors	WO well control course.[1]	
	Qualify to direct well control operations.[1]	
WS work crews	At least one crew member is trained in WS well control.[1]	Trained employee must be in work area at all time during snubbing or coil tubing operations.

Type of employee	Training requirements	Comments
	At least one crew member must be qualified to direct well control operations.[1]	
Production safety systems employees.	Must complete training that enables them to install, test, maintain, & operate subsurface surface safety devices.[1]	
Employees who work in well completion operations before or during tree installation.	Either WO well control course or drilling well control course.[1]	

[1] Employee may not work in the OCS unless this requirement is met.
[2] Employee must complete this requirement before exceeding six months of cumulative employment.

§ 250.213 What documentation must I provide to trainees?

You must give your employees documents that show they have completed the training courses required for their job. The employee must either carry the documents or keep them at the job site.

§ 250.214 How often must I provide training to my employees for how many hours?

(a) You must ensure that applicable employees complete basic or advanced well-control training at least every 2 years. For example, if your employee completed a well control course on May 31, 1996, they must again complete training by May 31, 1998.

(b) You must ensure that applicable employees complete basic or advance production safety systems training at least every 3 years. For example, if your employee completes production safety systems training on May 31, 1996, they must again complete the training by May 31, 1999.

(c) You must ensure that your employees have at least the following amount of training:

Basic/advanced course	Surface option minimum hours	Subsea option minimum hours[1]	No options minimum hours
Drilling (D) ...	28	32	—
Well-Completion/ Workover (WO)	32	36	—
Well-Serving (WS)	—	—	18
Combination D/WO	40	44	—
Combination D/WS	44	48	—
Combination WO/WS ...	48	52	—
Combination D/WO/WS	55	59	—
Production Safety Systems ...	—	—	30

[1] The subsea option includes the minimum hours from the surface option plus four hours.

§ 250.215 Where must I get training for my employees?

You must provide training by a training organization or program approved by MMS or by an MMS-approved third-party.

§ 250.216 Where can I find training guidelines for other topics?

You can find guidelines in the subparts of this part listed in the following table:

Topic	Subpart of part 250
Pollution control	C
Crane operations	A
Welding and burning	D
Hydrogen sulfide	D

§ 250.217 Can I get an exception to the training requirements?

MMS may grant an exception to well-control or production safety systems training if you meet both of the following:

(a) MMS determines that the exception won't jeopardize the safety of your personnel or create a hazard to the environment.

(b) You need the exception because of unavoidable circumstances that make compliance infeasible for impractical.

§ 250.218 Can my employees change job certification?

Only if you ensure that the employee completes training for the new job before entering on duty.

§ 250.19 What must I do if I have temporary employees or on-the-job trainees?

You must ensure that temporary employees and on-the-job trainees complete the appropriate training unless a trained supervisor is directly supervising the employee.

§ 250.220 What must manufacturer's representatives in production safety systems do?

A manufacturer's representative who is working on company supplied equipment must:

(a) Receive training by the manufacturer to install, service, or repair the specific safety device or safety systems; and

(b) Have an individual trained in production safety systems (who can evaluate their work) accompany them.

§ 250.221 May I use alternative training methods?

Yes.

(a) You may receive a one-year provisional approval from MMS to use alternative training methods that may involve team or self-paced training using a computer-based system.

(b) You may receive up to 3 additional years (4 years total) from MMS to use alternative training methods (through onsite reviews).

§ 250.222 AWhat is MMS looking for when it reviews an alternative training program?

(a) The alternative training must teach methods to operate equipment that result in safe and clean operations.

(b) MMS will determine, through onsite MMS reviews and unannounced audits during the provisional period, if the:

(1) Training environment is conducive to learning;

(2) Trainees interact effectively with the moderator or training administrator;

(3) Trainees function as a team (for well-control only); and

(4) Tests are challenging and cover all important safety concepts and practical procedures to ensure safety.

(c) MMS may also speak with the trainees to determine if the trainees felt the training met their needs for their job.

§ 250.223 Who may certify a training organization to teach?

Either MMS or an MMS-approved third party may certify a training organization or program.

§ 250.224 How long is a training organization's certification valid for?

A certificate is valid for a maximum of 4 years. A training organization may apply to MMS to recertify its program before the fourth anniversary of the effective certification date. The training organization must state the changes

(additions and deletions) to the last approved training curriculum and plan.

§ 250.225 What information must a training organization submit to MMS (or an MMS-approved third party)?

(a) Two copies of the detailed plan that includes the:

(1) Curriculum;

(2) Names and credentials of the instructors (instructors must complete training from an approved training organization);

(3) Mailing and street address of the training facility and the location of the records;

(4) Location for the simulator and lecture areas and how you separate the areas;

(5) Presentation methods (video, lecture, film, etc.);

(6) Percentage of time for each presentation method;

(7) Testing procedures and a sample test; and

(8) List of any portions of the course that cover the subsea training option instead of the surface training option.

(b) A training manual.

(c) A cross-reference that relates the requirements of this subpart to the elements in the program.

(d) A copy of the handouts.

(e) A copy of the training certificate that includes the following:

(1) Candidate's full name;

(2) Candidate's social security number or an MMS-issued or third party issued identification number;

(3) Name of the training school;

(4) Course name (e.g., basic WS well-control course);

(5) Option (surface or subsea);

(6) Training completion date;

(7) Job classification (e.g., drilling supervisor; and

(8) Certificate expiration date.

(f) Course outlines identified by:

(1) Name (e.g., ''WS well-control course'');

(2) Type (basic or advanced); and

(3) Option (surface or subsea).

(g) Time (hours per student) for the following:

(1) Teaching;

(2) Using the simulator (for well-control);

(3) Hands-on training (for production safety systems); and

(4) Completing the test (written and simulator).

(h) Special instruction methods for students who respond poorly to conventional training (including oral assistance).

(i) Additional material (for the advanced training option) such as advanced training techniques or case studies.

(j) Information on the simulator or test wells:

(1) Capability for surface and or subsea drilling well-control training;

(2) Capability to simulate lost circulation and secondary kicks; and

(3) Types of kicks.

§ 250.226 What additional requirements must a training organization follow?

(a) Keep training records of each trainee for 5 years after the date the trainee completed the training. For example, if a trainee completed a course in 1995, you may destroy the 1995 records at the end of the year 2000. Keep the following trainee record information:

(1) Daily attendance record including makeup time;

(2) Written test and retest (including simulator test);

(3) Evaluation of the trainee's simulator test or retest;

(4) ''Kill sheets'' for simulator test or retest; and

(5) Copy of the trainee's certificate.

(b) Keep records of the training program for 5 years. The 5 years starts with the program approval date. For example, if a training program was certified in 1995, at the end of the year 2000 you may destroy the records for 1995. Keep the following training record information:

(1) Complete and current training program plan and a technical manual;

(2) A copy of each class roster; and

(3) Copies of schedules and schedule changes.

(c) Supply trainees with copies of Government regulations on the training subject matter.

(d) Provide a certificate to each trainee who successfully completes training.

(e) Ensure that the subsea training option has an additional 4 hours of training and covers problems in well-control when drilling with a subsea blowout preventer (BOP) stack including:

(1) Choke line friction determinations;

(2) Using marine risers;

(3) Riser collapse;

(4) Removing trapped gas from the BOP after controlling a well kick; and

(5) ''U'' tube effect as gas hits the choke line.

(f) Ensure that trainees who are absent from any part of a course make up the missed portion within 14 days after the end of the course before providing a written or simulator test to the trainee.

(g) Ensure that classes contain 18 or fewer candidates.

(h) Furnish a copy of the training program and plan to MMS for their use during an onsite review.

(i) Submit the course schedule to MMS at the following times—after MMS approves the training program, annually, and prior to any program changes. The schedule must include the:

(1) Name of the course;

(2) Class dates;

(3) Type of course; and

(4) Course location.

(j) Provide all basic course trainees a copy of the training manual.

(k) Provide all advanced course trainees handouts necessary to update the manuals the trainee has as a result of previous training courses.

(l) When each course ends, send MMS a letter listing each trainee who completed the course. The letter must contain the following information for each trainee:

(1) Name of training organization;

(2) Course location (e.g., Thibodeaux, Louisiana);

(3) Trainee's full name;

(4) Name of course (e.g., Drilling well-control or WS well-control);

(5) Course type (i.e., basic or advanced training);

(6) Options (e.g., subsea);

(7) Date trainee completed course;

(8) Name(s) of instructor(s) teaching the course;

(9) Either the trainee's social security number or an MMS-issued or third party issued identification number;

(10) Trainee's employer;

(11) Actual job title of trainee;

(12) Job for each awarded certificate; and

(13) Test scores (including course element scores) for each successful trainee.

(m) Ensure that test scores for combination training have a separate score element for each designation and for each option. For example, training in subsea drilling and in WO would have separate test scores for the drilling, WO, and for the subsea portion.

§ 250.227 What are MMS's requirements for the written test?

(a) The training organization must:

(1) Administer the test at the training facility;

(2) Use 70 percent as a passing grade for each course element (drilling, well-completion, etc.);

(3) Ensure that the tests are confidential and nonrepetitive; and

(4) Offer a retest, when necessary, using different questions of equal difficulty.

(b) A trainee who fails a retest must repeat the training and pass the test in order to work in the OCS in their classification.

§ 250.228 What are MMS's requirements for the hands-on simulator and well test?

(a) The test must simulate a surface blowout preventer (BOP) or subsea stack. You must have a 3–D simulator with actual gauges and dials. The trainees must be able to demonstrate to the instructor the ability to:

(1) Kill the well prior to removing the tree;

(2) Determine slow pump rates;

(3) Recognize kick warning signs;

(4) Shut in a well;

(5) Complete kill sheets;

(6) Initiate kill procedures;

(7) Maintain appropriate bottomhole pressure;

(8) Maintain constant bottomhole pressure;

(9) Recognize and handle unusual well control situations;

(10) Control the kick as it reaches the choke line; and

(11) Determine if kill gas or fluids are removed.

(b) In the subsea option, trainees must demonstrate the ability to:

(1) Determine choke line friction pressures for subsea BOP stacks; and

(2) Discuss and demonstrate procedures such as circulating the riser and removing trapped gas in a subsea BOP stack.

(c) Offer a retest, when necessary, using different questions of equal difficulty.

(d) A trainee who fails a retest must repeat the training and pass the test to work in the OCS in their job classification.

§ 250.229 What elements must a basic course cover?

See § 250.229 Table (a) for well control and § 250.229 Table (b) for production safety systems. The checks in § 250.229 Table (a) indicate the required training elements that apply to each job. Tables (a) and (b) follow:

TABLE (A).—WELL CONTROL

Elements for basic training	Drilling		WO		WS
	Super	Floor	Super	Floor	
1. Hands-on:					
Training to operate choke manifold	.....	✔	.....	✔	.....
Training to operate stand pipe	.....	✔	.....	✔	.....
Training to operate mud room valves	.....	✔	.....	.....	.....
2. Care, handling & characteristics of drilling & completion fluids	✔	✔	.....	.....	.....
3. Care, handling & characteristics of well completion/well workover fluids & packer fluids	.....	.....	✔	✔	✔
4. Major causes of uncontrolled fluids from a well including:					
Failure to keep the hole full	✔	.....	✔	.....	.....
Swabbing effect	✔	.....	✔	.....	.....
Loss of circulation	✔	.....	✔	.....	.....
Insufficient drilling fluid density	✔	.....	✔	.....	.....
Abnormally pressured formations	✔	.....	✔	.....	.....
Effect of too rapidly lowering of the pipe in the hole	✔	.....	✔	.....	.....
5. Importance & instructions of measuring the volume of fluid to fill the hole during trips	.....	.....	✔	.....	.....
6. Importance & instructions of measuring the volume of fluid to fill the hold during trips including the importance of filling the hole as it relates to shallow gas conditions	✔	.....	.....	.....	.....
7. Filling the tubing & casing with fluid to control bottomhole pressure	.....	.....	.....	✔	.....
8. Warning signals that indicate kick & conditions that lead to a kick	✔	✔	✔	✔	.....
9. Controlling shallow gas kicks and using diverters	✔	.....	.....	.....	.....
10. At least one bottomhole pressure well control method including conditions unique to a surface or subsea BOP stack	✔	.....	✔	.....	.....
11. Installing, operating, maintaining & testing BOP & diverter systems	✔	.....	.....	.....	.....
12. Installing, operating, maintaining & testing BOP systems	.....	.....	✔	.....	.....
13. Government regulations on:					
Emergency shutdown systems	.....	.....	.....	.....	✔
Production safety systems	.....	.....	.....	.....	✔
Drilling procedures	✔	.....	.....	.....	.....
Wellbore plugging & abandonment	✔	.....	✔	.....	✔
Pollution prevention & waste management	✔	✔	✔	✔	✔
Well completion & well workover requirements (Subparts E & F of 30 CFR part 250)	.....	.....	✔	.....	✔
14. Procedures & sequential steps, for shutting in a well:					
BOP system	✔	.....	✔	.....	✔
Surface/subsurface safety system	.....	.....	.....	.....	✔
Choke manifold	✔	.....	✔	.....	.....
15. Well control exercises with a simulator suitable for modeling well completion/well workover	.....	.....	✔	.....	.....
16. Well control exercises with a simulator suitable for modeling drilling	✔	.....	.....	.....	.....
17. Instructions & simulator or test well experience on organizing & directing a well killing operation	✔	.....	✔	.....	.....
18. At least two simulator practice problems (rotate the trainees & have teams of 3 or less members)	✔	.....	✔	.....	.....
19. Care, operation, & purpose {& installation (for supervisors)} of the well control equipment	✔	✔	✔	✔	.....
20. Limitations of the equipment that may wear or be subjected to pressure	✔	.....	✔	.....	✔
21. Instructions in well control equipment, including:					
Surface equipment	.....	.....	✔	.....	✔
Well completion/well workover, BOP & tree equipment	.....	.....	.....	.....	✔
Downhole tools & tubulars	.....	.....	✔	.....	.....
Tubing hanger, back pressure valve (threaded/profile), landing nipples, lock mandrels for corresponding nipples & operational procedures for each, gas lift equipment & running & pulling tools operation	.....	.....	.....	.....	✔
Packers	.....	.....	✔	.....	.....

TABLE (A).—WELL CONTROL—Continued

Elements for basic training	Drilling		WO		WS
	Super	Floor	Super	Floor	
22. Instructions in special tools & systems, such as:					
Automatic shutdown systems (control points, activator pilots, monitor pilots, control manifolds & subsurface systems)	.....	.....	.....	.....	✔
Flow string systems (tubing, mandrels & nipples, flow couplings, blast joints, & sliding sleeves)	.....	.....	.....	.....	✔
Pumpdown equipment (purpose, applications, requirements, surface circulating systems, entry loops & tree connection/flange)	.....	.....	.....	.....	✔
23. Instructions for detecting entry into abnormally pressured formations & warning signals	✔	.....	.....	.....	.....
24. Instructions on well completion/well control problems	✔	.....	.....	.....	.....
25. Well control problems during well completion/well workover including:					
Killing a flow	.....	.....	✔	.....	.....
Simultaneous drilling, completion & workover operations on the same platform	.....	.....	✔	.....	.....
Killing a producing well	.....	.....	✔	.....	.....
Removing the tree	.....	.....	✔	.....	.....
26. Calculations on the following:					
Fluid density increase that controls fluid flow into the wellbore	✔	.....	✔	.....	.....
Fluid density to pressure conversion & the danger of formation breakdown under the pressure caused by the fluid column especially when setting casing in shallow formations	✔	.....	.....	.....	.....
Fluid density to pressure conversion & the danger of formation breakdown under the pressure caused by the fluid column	.....	.....	✔	.....	.....
Equivalent pressures at the casing seat depth	✔	.....	.....	.....	.....
Drop in pump pressure as fluid density increases; & the relationship between pump pressure, pump rate, & fluid density	✔	.....	✔	.....	.....
Pressure limitations on casings	✔	.....	✔	.....	.....
Hydrostatic pressure & pressure gradient	✔	.....	✔	.....	.....
27. Unusual well control situations, including the following:					
Drill pipe is off the bottom or out of the hole/work string is off the bottom or out of the hole	✔	.....	✔	.....	.....
Lost circulation occurs	✔	.....	✔	.....	.....
Drill pipe is plugged/work string is plugged	✔	.....	✔	.....	.....
There is excessive casing pressure	✔	.....	✔	.....	.....
There is a hole in drill pipe/hole in the work string/hole in the casing string	✔	.....	✔	.....	.....
Multiple completions in the hole	.....	.....	✔	.....	.....
28. Special well-control problems-drilling with a subsea stack (subsea students) includes:					
Choke line friction determinations	✔	.....	✔	.....	.....
Using marine risers	✔	.....	✔	.....	.....
Riser collapse	✔	.....	✔	.....	.....
Removing trapped gas from the BOP stack after controlling a well kick	✔	.....	✔	.....	.....
"U" tube effect as gas hits the choke line	✔	.....	✔	.....	.....
29. Mechanics of various well controlled situations, including:					
Gas bubble migration & expansion	✔	.....	✔	.....	.....
Bleeding volume from a shut-in well during gas migration	✔	.....	✔	.....	.....
Excessive annular surface pressure	✔	.....	✔	.....	.....
Differences between a gas kick & a salt water and/or oil kick	✔	.....	✔	.....	.....
Special well control techniques (such as, but not limited to, barite plugs & cement plugs)	✔	.....	✔	.....	.....
Procedures & problems involved when experiencing lost circulation	✔	.....	✔	.....	.....
Procedures & problems involved when experiencing a kick while drilling in a hydrogen sulfide (H2S) environment	✔	.....	✔	.....	✔
Procedures & problems—experiencing a kick during snubbing, coil-tubing, or small tubing operations and stripping & snubbing operations with work string	✔	.....	✔	.....	.....
30. Reasons for well completion/well workover, including:					
Reworking a reservoir to control production	.....	.....	✔	.....	✔
Water coning	.....	.....	✔	.....	.....
Completing from a new reservoir	.....	.....	✔	.....	✔
Completing multiple reservoirs	.....	.....	✔	.....	✔
Stimulating to increase production	.....	.....	✔	.....	✔
Repairing mechanical failure	.....	.....	✔	.....	✔
31. Methods on preparing a well for entry:					
Using back pressure valves	.....	.....	✔	.....	.....
Using surface & subsurface safety systems	.....	.....	✔	.....	✔
Removing the tree & tubing hangar	.....	.....	✔	✔	✔
Installing & testing BOP & wellhead prior to removing back pressure valves & tubing plugs	.....	.....	✔	.....	✔
32. Instructions in small tubing units:					
Applications (stimulation operations, cleaning out tubing obstructions, and plugback and squeeze cementing)	.....	.....	✔	.....	.....
Equipment description (derrick & drawworks, small tubing, pumps, weighted fluid facilities, and weighted fluids)	.....	.....	✔	.....	.....
BOP equipment (rams, wellhead connection, & check valve	.....	.....	✔	.....	.....
33. Methods for killing a producing well, including:.					
Bullheading	.....	.....	✔	.....	✔
Lubricating & bleeding	.....	.....	✔	.....	✔

TABLE (A).—WELL CONTROL—Continued

Elements for basic training	Drilling		WO		WS
	Super	Floor	Super	Floor	
Coil tubing	.....	.....	✔	.....	✔
Applications (stimulation operations, initiating flow, & cleaning out sand in tubing)	.....	.....	.....	.....	✔
Equipment description (coil tubing, reel, injection head, control assembly & injector hoist)	.....	.....	.....	.....	✔
BOP equipment (tree connection or flange, rams, injector assembly & circulating system)	.....	.....	.....	.....	✔
Snubbing	.....	.....	✔	.....	✔
Types (rig assist & stand alone)	.....	.....	.....	.....	✔
Applications (running & pulling production or kill strings, resetting weight on packers, fishing for lost wireline tools or parted kill strings & circulating cement or fluid)	.....	.....	.....	.....	✔
Equipment (operating mechanism, power supply, control assembly & basket, slip assembly, mast & counterbalance winch & access window)	.....	.....	.....	.....	✔
BOP equipment (tree connection or flange, rams, spool, traveling slips, manifolds, auxiliary—full opening safety valve inside BOP, maintenance & testing)	.....	.....	.....	.....	✔
34. The purpose & use of BOP closing units, including the following:					
Charging procedures include precharge & operating pressure	✔	.....	✔	.....	.....
Fluid volumes (usable & required)	✔	.....	✔	.....	.....
Fluid pumps	✔	.....	✔	.....	.....
Maintenance that includes charging fluid & inspection procedures	✔	.....	✔	.....	.....
35. Instructions on stripping & snubbing operations & using the BOP system for working pipe in or out of a wellbore under pressure	✔	.....	.....	.....	.....

TABLE (B).—PRODUCTION SAFETY SYSTEMS

1. Government Regulations:
   - Pollution prevention & waste management.
   - Requirements for well completion/well workover operations.
2. Instructions in the following: (contained in, but not limited to, API RP 14C):
   - Failures or malfunctions, in systems that cause abnormal conditions & the detection of abnormal conditions.
   - Primary & secondary protection devices & procedures.
   - Safety devices that control undesirable events.
   - Safety analysis concepts.
   - Safety analysis of each basis production process component.
   - Protection concepts.
3. Hands on training on safety devices covering, installing, operating, repairing or maintaining equipment:
   - High-low pressure sensors.
   - High-low level sensors.
   - Combustible gas detectors.
   - Pressure relief devices.
   - Flow line check valves.
   - Surface safety valves.
   - Shutdown valves.
   - Fire (flame, heat, or smoke) detectors.
   - Auxiliary devices (3-way block & bleed valves, time relays, 3-way snap acting valves, etc.).
   - Surface-controlled subsurface safety valves &/or surface-control equipment.
   - Subsurface-controlled subsurface safety valves.
4. Instructions on inspecting, testing & maintaining surface & subsurface devices & surface control systems for subsurface safety valves.
5. Instructions in at least one safety device that illustrates the primary operation principle in each class for safety devices:
   - Basic operations principles.
   - Limits affecting application.
   - Problems causing equipment malfunction & how to correct these problems.
   - A test for proper actuation point & operation.
   - Adjustments or calibrations.
   - Recording inspection results & malfunctions.
   - Special techniques for installing safety devices.
6. Instructions on the basic principle & logic of the emergency support system:
   - Combustible & toxic gas detection system.
   - Liquid containment system.
   - Fire loop System.
   - Other fire detection systems.
   - Emergency shutdown system.
   - Subsurface safety valves.

§ 250.230 If MMS tests employees at my worksite, what must I do?

(a) You must allow MMS to test employees at your worksite.

(b) You must identify your employees by:

(1) Current job classification;

(2) Name of the operator;

(3) Name of the most recent basic or advanced course taken by your employees for their current job; and

(4) Name of the training organization.

(c) You must correct any deficiencies found by MMS.

Steps for correcting deficiencies may include:

(1) Isolating problem areas by doing more testing; and

(2) Reassigning employees or conducting the training they need (MMS will not identify the employees it tests).

§ 250.231 If MMS tests trainees at a training organization's facility, what must occur?

(a) Training organizations must allow MMS to test trainees.

(b) The trainee must pass the MMS-conducted test or a retest in order for MMS to consider that the trainee completed the training.

§ 250.232 Why might MMS conduct its own tests?

MMS needs to identify the effectiveness of a training program that provides safe and clean operations.

[FR Doc. 95–27077 Filed 11–1–95; 8:45 am]

BILLING CODE 4310–MR–M

DEPARTMENT OF COMMERCE

Patent and Trademark Office

37 CFR Parts 1, 5 and 10

[Docket No. 951006247–5247–01]

RIN 0651–AA70

Communications With the Patent and Trademark Office

AGENCY: Patent and Trademark Office, Commerce.

ACTION: Notice of proposed rulemaking.

SUMMARY: The Patent and Trademark Office (Office) is proposing to amend the rules of practice in patent and trademark cases to simplify and streamline existing mailing procedures. The new procedures will include specific addresses for most mail to ensure faster and more accurate mail delivery. A definition of ''Federal holiday within the District of Columbia'' is provided and the procedure for ''Express Mail'' will be simplified.

DATES: Comments must be received by January 2, 1996. No hearing will be held.

ADDRESSES: Address written comments to Assistant Commissioner for Trademarks, 2900 Crystal Drive, Arlington, Virginia 22202–3513, marked to the attention of Lynne G. Beresford. In addition, written comments may also be sent by facsimile transmission to (703) 308–7220 with a confirmation copy mailed to the above address, or by electronic mail messages over the Internet to mail-rule@uspto.gov.

Written comments will be available for public inspection on January 16, 1996, in the Assistant Commissioner for Trademarks' suite on the 10th floor of the South Tower Building, 2900 Crystal Drive, Arlington, Virginia 22202–3513.

FOR FURTHER INFORMATION CONTACT: Lawrence E. Anderson (for patent-related matters) by telephone at (703) 305–9285, by electronic mail at landerso@uspto.gov, or by mail to his attention addressed to the Assistant Commissioner for Patents, Box DAC, Washington, D.C. 20231; or Lynne G. Beresford (for trademark-related matters) by telephone at (703) 308–8900, extension 44, or by mail marked to their attention and addressed to the Assistant Commissioner for Trademarks, 2900 Crystal Drive, Arlington, Virginia 22202–3513.

SUPPLEMENTARY INFORMATION: Addresses for correspondence with the Office are proposed to be changed to reflect the creation of a mailroom site at the South Tower Building for processing most trademark-related mail; to distinguish correspondence intended for organizations reporting to the Assistant Commissioner for Patents from other correspondence; and to add a separate mailing address in the Office of the Solicitor for disciplinary matters

The proposed rulemaking entitled ''Changes in Requirements for Addressing Trademark Applications and Trademark-Related Papers'' (0651–AA73) has been merged with this notice of proposed rulemaking.

The Office will now have three separate general mailing addresses: (1) Assistant Commissioner for Patents for correspondence processed by organizations reporting to the Assistant Commissioner for Patents; (2) Assistant Commissioner for Trademarks for all trademark-related mail, except for trademark documents sent to the Assignment Division for recordation and requests for certified and uncertified copies of trademark documents which should be addressed to the Commissioner of Patents and Trademarks; and (3) Commissioner of Patents and Trademarks for all other correspondence. Notwithstanding the above, it is proposed that there will be separate mailing addresses in the Office of the Solicitor for certain disciplinary matters and cases involving pending litigation.

Those who correspond with the Office are requested to use separate envelopes directed to the different areas.

Because patent-related mail will be sent to the Assistant Commissioner for Patents, the requirement to designate patent application correspondence as ''PATENT APPLICATION'' is proposed to be deleted from section 1.5(a).

In addition, it is proposed that ''Federal holiday within the District of Columbia'' be defined as including Official closings.

It is further proposed that a ''Certificate of Mailing by Express Mail'' (currently necessary to obtain the benefit of the date of deposit with the United States Postal Service (U.S.P.S.) as the filing date of the Paper) no longer be required for correspondence actually received in the Office.

Patent-Related Mail

Section 1.1 is proposed to be amended to provide for correspondence which is processed by organizations reporting to the Assistant Commissioner for Patents to be addressed to the ''Assistant Commissioner for Patents, Washington, DC 20231.'' The Office first announced the new address for patent-related mail in a notice (Change of Address for Patent Applications and Patent Related Papers) published in the Official Gazette at 1173 Off. Gaz. Pat. Office 13 (April 4, 1995).

This change will affect correspondence such as: patent applications, responses to notices of informality, requests for extension of time, notices of appeal to the Board of Patent Appeals and Interferences (the Board), briefs in support of an appeal to the Board, requests for oral hearing before the Board, extensions of term of patent, requests for reexamination, statutory disclaimers, certificates of correction, petitions to the Commissioner, submission of information disclosure statements, petitions to institute a public use proceeding, petitions to revive abandoned patent applications, and other correspondence related to patent applications and patents which is processed by organizations reporting to the Assistant Commissioner for Patents. When patent-related documents are filed with a certificate of mailing, pursuant to section 1.8, the certificate of mailing should be completed with the new address: Assistant Commissioner for Patents, Washington, D.C. 20231.

Unless otherwise specified, correspondence not processed by organizations reporting to the Assistant Commissioner for Patents, such as communications with the Board, patent services including patent copy sales, assignments, requests for lists of patents and SIRs in a subclass, requests for the status of maintenance fee payments, as well as patent practitioner enrollment matters including admission to

examination, registration to practice, certificates of good standing, and financial service matters including establishing a deposit account should continue to be addressed to the Commissioner of Patents and Trademarks, Washington, D.C. 20231. Documents to be recorded with the Assignment Division, except those filed with new applications, should be addressed to: Box Assignment, Commissioner of Patents and Trademarks, Washington, D.C. 20231. Orders for certified and uncertified copies of Office documents should be addressed to: Box 10, Commissioner of Patents and Trademarks, Washington, D.C. 20231.

Special Office mail boxes as currently listed in each issue of the Official Gazette should continue to be used to allow forwarding of particular types of mail to the appropriate areas as quickly as possible. Use of special box designations will facilitate the Office's timely and accurate identification and processing of the designated correspondence.

Checks should continue to be made payable to the Commissioner of Patents and Trademarks.

Trademark-Related Mail

Most trademark-related mail should be sent directly to the Trademark Operation at: Assistant Commissioner for Trademarks, 2900 Crystal Drive, Arlington, Virginia 22202–3513. When trademark-related documents are filed with a certificate of mailing, pursuant to section 1.8, the certificate of mailing should be completed with the new address: Assistant Commissioner for Trademarks, 2900 Crystal Drive, Arlington, Virginia 22202–3513. Use of the correct address will avoid processing delays. Trademark documents to be recorded with the Assignment Division, except those filed with new applications, should be addressed to: Box Assignment, Commissioner of Patents and Trademarks, Washington, D.C. 20231. Orders for certified and uncertified copies of trademark documents should be addressed to: Box 10, Commissioner of Patents and Trademarks, Washington, D.C. 20231.

The Office announced the new address for trademark-related mail in a notice (Change of Address for Trademark Applications and Trademark Related Papers) published in the Federal Register at 59 FR 29275 (June 6, 1994) and in the Trademark Office Official Gazette at 1163 Off. Gax. Trademark Office 80 (June 28, 1994) (republished in 1170 Off. Gaz. Pat. Office 303 (January 3, 1995)).

The Office will continue to maintain the special box designations and FEE/NO FEE indicators for trademark mail as currently listed in each issue of the Official Gazette. In addition to addressing trademark-related mail as set forth above, the boxes should also be used to allow forwarding of particular types of mail to the appropriate areas as quickly as possible.

Checks should continue to be made payable to the Commissioner of Patents and Trademarks.

Mail intended for the Trademark Trial and Appeal Board should be addressed to: Assistant Commissioner for Trademarks, 2900 Crystal Drive, Arlington, Virginia 22202–3513, including BOX TTAB/FEE or BOX TTAB/NO FEE, whichever is applicable.

Hand-Carried Correspondence

All correspondence with the Office, except for communications relating to pending litigation as specified currently in section 1.1(g), may continue to be filed directly at the Attorney's Window located in Room 1B03 of Crystal Plaza Building 2, 2011 South Clark Place, Arlington, Virginia. Trademark-related papers may also be filed at the ''walk-up'' window located on the third floor of the South Tower Building, 2900 Crystal Drive, Arlington, Virginia.

Federal Holidays Within The District of Columbia

When the Patent and Trademark Office is officially closed for an entire day (for reasons due to weather or other causes), the Office will consider each such day a ''Federal holiday within the District of Columbia'' under 35 U.S.C. 21. Any action or fee due on such a day may be taken, or fee paid, on the next succeeding business day the Office is open.

Legal holidays considered ''Federal holidays within the District of Columbia'' are New Year's Day (January 1), Martin Luther King, Jr.'s Birthday (third Monday in January), Presidential Inauguration Day, Washington's Birthday (third Monday in February), Memorial Day (last Monday in May), Independence Day (July 4), Labor Day (first Monday in September), Columbus Day (second Monday in October), Veterans Day (November 11), Thanksgiving Day (fourth Thursday in November) and Christmas Day (December 25). In the past, the Office has published notices concerning unscheduled closings. See, e.g., ''Closing of Patent and Trademark Office on Thursday, January 20, 1994 and Friday, February 11, 1994,'' 1161 Off. Gaz. Pat. Office 12 (April 5, 1994) (republished in 1170 Off. Gaz. Pat. Office 8 (January 3, 1995)) and ''Filing of Papers During Unscheduled Closings of the Patent and Trademark Office,'' 1097 Off. Gaz. Pat. Office 53 (December 20, 1988) (republished in 1170 Off. Gaz. Pat. Office 8 (January 3, 1995)). The proposed rule change will further implement the existing policy.

Express Mail Provisions

Section 1.10 is proposed to be amended by deleting the requirement for a ''Certificate of Mailing by Express Mail'' to obtain the benefit of the date of deposit with the United States Postal Service (U.S.P.S.) as the filing date of the paper. The title of section 1.10 is proposed to be revised and section 1.10 is also proposed to be amended to incorporate requirements for the resubmission of misplaced correspondence which parallel section 1.8.

Under the current rule, the filer is required to include a Certificate of Mailing by Express Mail, certifying the date of deposit as Express Mail. Some papers filed with the Office, although deposited as Express Mail with the U.S.P.S., have been denied the filing date of the date of deposit as Express Mail because the required Certificate of Mailing by Express Mail was omitted or deficient. The lost filing date for a significant number of these papers has resulted in the loss of substantive rights. For example, a trademark registration may be canceled if the required affidavit of continued use or excusable non-use is not filed by the end of the sixth year of registration. 15 U.S.C. 1058.

In light of the problematic nature of the requirement for a Certificate of Mailing by Express Mail, inasmuch as the date of deposit has already been entered by a disinterested third party, the Office proposes to delete this requirement from section 1.10.

Miscellaneous Changes

Miscellaneous changes are proposed to change the word ''communications'' to ''correspondence'' for purposes of consistency.

Also, since the certificate of mailing by ''Express Mail'' will no longer be a requirement of the proposed rules, the provisions of Part 10 relating to misconduct are proposed to be amended to delete reference to this requirement.

Discussion of Specific Rules

If revised as proposed, the heading of section 1.1 will be changed to state that the section contains the addresses for correspondence to the Patent and Trademark Office.

Section 1.1 is proposed to be revised to set out all pertinent Office mailing

addresses in paragraph (a) and in added paragraphs (a)(1), (a)(2), and (a)(3). It should be noted that the remaining paragraphs of section 1.1 contain directions for using box designations rather than addresses. Paragraph (a)(1) is proposed to be added to set out the new mailing address to which most patent-related documents should be sent. Paragraph (a)(2) is proposed to be added to set out the new mailing address to which most trademark-related documents should be sent. The Solicitor's mailing address, formerly set out in paragraph (g) of the section is moved to a new paragraph (a)(3). Paragraph 1.1(g) is proposed to be removed and reserved.

Sections 1.1 and 1.3 are proposed to be amended so that the word ''communications'' is changed to ''correspondence.''

Section 1.5(a) is proposed to be amended by removing the requirement of the words ''PATENT APPLICATION'' on letters concerning patent applications.

Section 1.8(a) is proposed to be revised to state that papers and fees must be addressed as set out in 1.1(a). For the purposes of 1.8(a)(1)(i)(A), first class mail is interpreted as including ''Express Mail'' and ''Priority Mail'' deposited with the U.S.P.S.

Section 1.9 is proposed to be amended to add a definition of ''Federal holiday within the District of Columbia'' to include Federal holidays and days when the Patent and Trademark Office is officially closed for the entire day (for reasons due to adverse weather or other causes).

Section 1.10 is proposed to be revised to state that ''Express Mail'' must be addressed as set out in § 1.1(a). The title of section 1.10 is proposed to be revised to reflect this change. Further, for all correspondence actually received in the Office, the Office will consider the correspondence filed on the date shown by the ''date in'' notation on the ''Express Mail'' label unless the ''date in'' is a Saturday, Sunday or Federal holiday within the District of Columbia. Because of the reliance on the ''date in'' marked by the Postal Service, correspondence should be deposited directly with a person at the United States Postal Service, rather than in a drop box, to ensure that the person making the deposit receives a copy of the ''Express Mail'' label at the time of making the deposit to verify that the ''date in'' is accurately and clearly written by the Postal Service employee. Persons using an Express mail receptacle (such as a drop box) do so at the risk of not receiving an accurate and legible copy of the Express mail label at the time of deposit from which the Office may determine the ''Express mail'' ''date in,'' and, therefore, may not later argue that they should be entitled to the date on which they deposited the correspondence into a receptacle. Moreover, if the ''date in'' is found to be illegible or unclear, a person dealing directly with a Postal Service employee must take corrective action to ensure that a clear and accurate date is marked at the time of deposit. Persons choosing to use a receptacle (or the like) obviously do not oversee the marking by a Postal Service employee and thus may not later argue for the benefit of a section 1.10 filing date if the ''date in'' on the ''Express Mail'' label is improperly or not clearly marked. The determinative factor is when the Postal Service marks the ''date in'' and the mere deposit into a receptacle does not entitle one to an ''Express Mail'' ''date in'' under section 1.10.

Paragraph (b) of section 1.10 is proposed to be amended by deleting the requirement for a ''Certificate of Mailing by Express Mail'' currently necessary to obtain the benefit of the date of deposit with the United States Postal Service (U.S.P.S.) express mail service as the filing date of the paper.

Paragraph (c) of section 1.10 is proposed to be amended to set forth the requirements for the treatment of correspondence not received by the Office for which the ''Express Mail'' procedure was utilized. Correspondence not received by the Office will be considered filed in the Office on the date shown by the ''date in'' notation entered by the Postal Service if the party who forwards the correspondence:

(1) Places the number of the ''Express Mail'' mailing label on the correspondence prior to the original mailing by ''Express Mail,''

(2) Informs the Office of the previous deposit of the correspondence promptly after becoming aware that the Office has no evidence of receipt of the correspondence,

(3) Supplies an additional copy of the previously deposited correspondence showing the number of the ''Express Mail'' label thereon,

(4) Supplies a copy of the ''Express Mail'' label clearly displaying the ''date in'' entered by the United States Postal Service, and

(5) Includes a statement which establishes, to the satisfaction of the Commissioner, the previous deposit and that the copies of the correspondence and ''Express Mail'' label are true copies of the original correspondence and ''Express Mail'' label. Such statement must be on the basis of personal knowledge, whenever possible, and must be a verified statement if made by a person other than a practitioner as defined in section 10.1(r) of this chapter.

In addition, although the requirement for a certificate of express mail has been proposed to be eliminated from section 1.10, applicants are strongly encouraged to continue using the certificate of express mail, as well as the placement of the Express Mail label number in the upper right corner of the first page of each separate piece of correspondence and to retain a clearly marked Express Mail label, to facilitate complying with the requirements of paragraph (c) if the correspondence is not received in the Office or if reliance on the U.S.P.S. ''date in'' is not possible. Moreover, paragraph (d) is proposed to be added so that additional evidence may be required if the Office so determines.

Section 5.33 (entitled ''Correspondence'') is proposed to be amended to change the correspondence address to ''Assistant Commissioner for Patents (Attention: Licensing and Review), Washington, DC 20231.''

Section 10.23(c)(9) is proposed to be revised to reflect the proposed change to section 1.10 that the certificate of mailing by ''Express Mail'' is no longer a requirement of the rules.

Other Considerations

The proposed rule changes are in conformity with the requirements of the Regulatory Flexibility Act (5 U.S.C. *et seq.*), Executive Order 12612, and the Paperwork Reduction Act of 1980, 44 U.S.C. 3501 *et seq.* Information collection requirements are not affected by the change of address. This proposed rule has been determined to not be significant for the purposes of Executive Order 12866.

The Office has determined that this proposed rule change has no Federalism implications affecting the relationship between the National Government and the States as outlined in Executive Order 12612.

The Assistant General Counsel for Legislation and Regulation of the Department of Commerce has certified to the Chief Counsel for Advocacy, Small Business Administration, that the proposed rule changes would not have a significant impact on a substantial number of small entities (Regulatory Flexibility Act, 5 U.S.C. 605(b)). The proposed rule change has no effect on patent fees.

These proposed rule changes contain collections of information subject to the requirements of the Paperwork Reduction Act of 1980, 44 U.S.C. 3501 *et seq.*, which are currently approved by the Office of Management and Budget

under Control No. 0651–0009 and 0651–0031. The public reporting burden for these collections of information for certificate of mailing is estimated to average six minutes per response, including the time for reviewing instructions, searching existing data sources, gathering and maintaining the data needed, and completing and reviewing the collection of information. Send comments regarding this burden estimate or any other aspect of this collection of information, including suggestions for reducing this burden to the Office of System Quality and Enhancement Division, Patent and Trademark Office, Washington, D.C. 20231, and to the Office of Information and Regulatory Affairs, Office of Management and Budget, Washington, DC 20503. (Attn: Paperwork Reduction Act Projects 0651–0009 and 0651–0031).

List of Subjects

37 CFR Part 1

Administrative practice and procedure, Freedom of information, Inventions and patents, Reporting and record keeping requirements.

37 CFR Part 5

Classified information, Foreign relations, Inventions and patents.

37 CFR Part 10

Administrative Practice and procedure, Conflicts of interest, Courts, Inventions and patents, Lawyers.

For the reasons set forth in the preamble and under the authority granted to the Commissioner of Patents and Trademarks by 35 U.S.C. 6 and 15 U.S.C. 1123, 37 CFR Parts 1, 5 and 10 are proposed to be amended as follows:

PART 1—RULES OF PRACTICE IN PATENT CASES

1. The authority citation for 37 CFR Part 1 continues to read as follows:

Authority: 35 U.S.C. 6, unless otherwise noted.

2. Section 1.1 is proposed to be amended by removing and reserving paragraph (g) and by revising the heading and paragraph (a) to read as follows:

§ 1.1 Addresses for correspondence with the Patent and Trademark Office.

(a) Except for those documents identified in paragraphs (a)(1), (2) and (3) of this section, all correspondence intended for the Patent and Trademark Office must be addressed to ''Commissioner of Patents and Trademarks, Washington, D.C. 20231.'' When appropriate, correspondence should also be marked for the attention of a particular office or individual.

(1) *Patent correspondence.* All correspondence concerning patent matters processed by organizations reporting to the Assistant Commissioner for patents should be addressed to ''Assistant Commissioner for Patents, Washington, D.C. 20231.''

(2) *Trademark correspondence.* All correspondence concerning trademark matters, except for trademark-related documents sent to the Assignment Division for recordation and requests for certified and uncertified copies of trademark application and registration documents, should be addressed to ''Assistant Commissioner for Trademarks, 2900 Crystal Drive, Arlington, Virginia 22202–3513.'' This includes correspondence intended for the Trademark Trial and Appeal Board.

(3) *Office of Solicitor correspondence.* (i) Correspondence relating to pending litigation required by court rule or order to be served on the Solicitor shall be hand-delivered to the Office of the Solicitor or shall be mailed to: Office of the Solicitor, P.O. Box 15667, Arlington, Virginia 22215; or such other address as may be designated in writing in the litigation. See §§ 1.302(c) and 2.145(b)(3) for filing a notice of appeal to the U.S. Court of Appeals for the Federal Circuit.

(ii) Correspondence relating to disciplinary proceedings pending before an Administrative Law Judge or the Commissioner shall be mailed to: Office of the Solicitor, P.O. Box 16116, Arlington, Virginia 22215.

(iii) All other correspondence to the Office of the Solicitor shall be addressed to: Box 8, Commissioner of Patents and Trademarks, Washington, D.C. 20231.

(iv) Correspondence addressed to the wrong Post Office Box will not be filed elsewhere in the Patent and Trademark Office and might be returned.

* * * * *

(g) [Reserved]

* * * * *

3. Section 1.3 is proposed to be revised to read as follows:

§ 1.3 Business to be conduced with decorum and courtesy.

Applicants and their attorneys or agents are required to conduct their business with the Patent and Trademark Office with decorum and courtesy. Papers presented in violation of this requirement will be submitted to the Commissioner and will be returned by the Commissioner's direct order. Complaints against examiners and other employees must be made in correspondence separate from other papers.

4. Section 1.5(a) is proposed to be revised to read as follows:

§ 1.5 Identification of application, patent, or registration.

(a) No correspondence relating to an application should be filed prior to when notification of the application number is received from the Patent and Trademark Office. When a letter directed to the Patent and Trademark Office concerns a previously filed application for a patent, it must identify on the top page in a conspicuous location, the application number (consisting of the series code and the serial number; e.g., 07/123,456), or the serial number and filing date assigned to that application by the Patent and Trademark Office, or the international application number of the international application. Any correspondence not containing such identification will be returned to the sender where a return address is available. The returned correspondence will be accompanied with a cover letter which will indicate to the sender that if the returned correspondence is resubmitted to the Patent and Trademark Office within two weeks of the mail date on the cover letter, the original date of receipt of the correspondence will be considered by the Patent and Trademark Office as the date of receipt of the correspondence. Applicants may use either the Certificate of Mailing or Transmission procedure under § 1.8 or the Express Mail procedure under § 1.10 for resubmissions of returned correspondence if they desire to have the benefit of the date of deposit in the United States Postal Service. If the returned correspondence is not resubmitted within the two-week period, the date of receipt of the resubmission will be considered to be the date of receipt of the correspondence. The two-week period to resubmit the returned correspondence will not be extended. If for some reason returned correspondence is resubmitted with proper identification later than two weeks after the return mailing by the Patent and Trademark Office, the resubmitted correspondence will be accepted but given its date of receipt. In addition to the application number, all letters directed to the Patent and Trademark Office concerning applications for patent should also state the name of the applicant, the title of the invention, the date of filing the same, and, if known, the group art unit or other unit within the Patent and Trademark Office responsible for considering the letter and the name of

the examiner or other person to which it has been assigned.

* * * * *

5. Section 1.8(a)(1)(i)(A) is proposed to be revised to read as follows:

§ 1.8 Certificate of mailing or transmission.

(a) * * *

(1) * * *

(i) * * *

(A) Addressed as set out in § 1.1(a) and deposited with the U.S. Postal Service with sufficient postage as first class mail; or

* * * * *

6. Section 1.9 is proposed to be amended by adding a new paragraph (h) to read as follows:

§ 1.9 Definitions.

* * * * *

(h) A ''Federal holiday within the District of Columbia'' as used in this chapter means any day, except Saturdays and Sundays, when the Patent and Trademark Office is officially closed for business.

7. Section 1.10 is proposed to be revised to read as follows:

§ 1.10 Filing of correspondence by ''Express Mail.''

(a) Any correspondence received by the Patent and Trademark Office utilizing the ''Express Mail Post Office to Addressee'' service of the United States Postal Service will be considered filed in the Office on the date shown by the ''date in'' notation entered by the United States Postal Service on the ''Express Mail'' label, unless the ''date in'' is a Saturday, Sunday or Federal holiday within the District of Columbia. See § 1.6(a). This procedure can be used to file any correspondence in the Office.

(b) Any correspondence filed by ''Express Mail'' must be addressed as set out in § 1.1(a) and should be deposited directly with the United States Postal Service to ensure that the person depositing the correspondence receives a copy of the ''Express Mail'' label at the time of deposit with the ''date in'' clearly marked thereon. Persons dealing indirectly with the Untied States Postal Service (such as by deposit in an Express Mail drop box) do so at the risk of not receiving their copy of the ''Express Mail'' label with the ''date in'' clearly marked.

(c) Any correspondence mailed to the Patent and Trademark Office utilizing the ''Express Mail Post Office to Addressee'' service of the United States Postal Service, but not received by the Office, will be considered filed in the Office on the date shown by the ''date in'' notation entered by the Untied States Postal Service on the ''Express Mail'' label, unless the ''date in'' is a Saturday, Sunday or Federal holiday within the District of Columbia (see § 1.6(a)), if the party who forwarded such correspondence:

(1) Places the number of the ''Express Mail'' mailing label on the correspondence prior to the original mailing by ''Express Mail,''

(2) Informs the Office of the previous deposit of the correspondence promptly after becoming aware that the Office has no evidence of receipt of the correspondence,

(3) Supplies a copy of the previously deposited correspondence showing the number of the ''Express Mail'' label thereon,

(4) Supplies a copy of the ''Express Mail'' label clearly displaying the ''date in'' entered by the United States Postal Service, and

(5) Includes a statement which establishes, to the satisfaction of the Commissioner, to the previous deposit and that the copies of the correspondence and ''Express Mail'' label are true copies of the original correspondence and ''Express Mail'' label. Such statement must be on the basis of personal knowledge, whenever possible, and must be a verified statement if made by a person other than a practitioner as defined in § 10.1(r) of this chapter.

(d) The Office may require additional evidence to determine if the correspondence was deposited as ''Express Mail'' with the United States Postal Service on the date in question.

PART 5—SECRECY OF CERTAIN INVENTIONS AND LICENSES TO EXPORT AND FILE APPLICATIONS IN FOREIGN COUNTRIES

8. The authority citation for 37 CFR Part 5 continues to read as follows:

Authority: 35 U.S.C. 6, 41, 181–188, as amended by the Patent Law Foreign Filing Amendments Act of 1988, Pub. L. 100–418, 102 Stat. 1567; the Arms Export Control Act, as amended, 22 U.S.C. 2751 et seq., the Atomic Energy Act of 1954, as amended, 42 U.S.C. 2011 et seq., and the Nuclear Non-Proliferation Act of 1978, 22 U.S.C. 3201 *et seq.*, and the delegations in the regulations under these acts to the Commissioner (15 CFR 370.10(j), 22 CFR 125.04, and 10 CFR 810.7).

9. Section 5.33 is proposed to be revised to read as follows:

§ 5.33 Correspondence.

All correspondence in connection with this part, including petitions, should be addressed to ''Assistant Commissioner for Patents (Attention: Licensing and Review), Washington, D.C. 20231.''

PART 10—REPRESENTATION OF OTHERS BEFORE THE PATENT AND TRADEMARK OFFICE

10. The authority citation for 37 CFR Part 10 continues to read as follows:

Authority: 5 U.S.C. 500; 15 U.S.C. 1123; 35 U.S.C. 6, 31, 32, 41.

11. Section 10.23(c)(9) is proposed to be revised to read as follows:

§ 10.23 Misconduct.

* * * * *

(c) * * *

* * * * *

(9) Knowingly misusing a ''Certificate of Mailing or Transmission'' under § 1.8 of this chapter.

* * * * *

Dated: October 26, 1995.

Bruce A. Lehman,

Assistant Secretary of Commerce and Commissioner of Patents and Trademarks.

[FR Doc. 95–27031 Filed 11–1–95; 8:45 am]

BILLING CODE 3510–16–M

Notices

Federal Register
Vol. 60, No. 212
Thursday, November 2, 1995

This section of the FEDERAL REGISTER contains documents other than rules or proposed rules that are applicable to the public. Notices of hearings and investigations, committee meetings, agency decisions and rulings, delegations of authority, filing of petitions and applications and agency statements of organization and functions are examples of documents appearing in this section.

DEPARTMENT OF AGRICULTURE

Forest Service

Suitability Studies for 22 Wild and Scenic Rivers, Tahoe National Forest, Placer, Yuba, Eldorado, Sierra, and Nevada Counties, CA

AGENCY: Forest Service, USDA.

ACTION: Revised Notice of Intent to Prepare an Environmental Impact Statement.

SUMMARY: The Department of Agriculture, Forest Service, Tahoe National Forest and the Department of Interior, Bureau of Land Management, Folsom District, is preparing an environmental impact statement (EIS) which analyzes the suitability of 22 rivers in, and adjacent to, the Tahoe National Forest in California. The Notice of Intent to prepare an Environmental Impact Statement was published in the Federal Register on Tuesday, April 27, 1993 [58 FR 25601]. The Notice announced that a draft environmental impact statement (DEIS) would be available for review in February of 1994. The DEIS is now expected to be available in November of 1995. Additionally, the scope of the EIS has been expanded to include a Forest Land and Resource Management Plan amendment. The amendment would give interim protection for those rivers recommended to Congress until Congress rules on a final recommendation.

FOR FURTHER INFORMATION CONTACT:

Questions about the proposed action and environmental impact statement should be directed to Phil Horning, Wild and Scenic River Coordinator, P.O. Box 6003, Nevada City, CA 95959, phone (916) 265–4531.

Dated: October 24, 1995.
John H. Skinner,
Forest Supervisor.
[FR Doc. 95–27224 Filed 11–1–95; 8:45 am]
BILLING CODE 3410–11–M

Chasina Environmental Impact Statement

AGENCY: Forest Service, USDA.

ACTION: Notice of Intent to Prepare an Environmental Impact Statement.

SUMMARY: The Department of Agriculture, Forest Service, will prepare an Environmental Impact Statement (EIS) to provide timber for the Ketchikan Pulp Company 50-year Timber Sale Contract or the Ketchikan Area Independent Timber Sale Program. The Record of Decision will disclose how the Forest Service has decided to provide harvest units, roads, and associated timber harvesting facilities. The proposed action is to harvest an estimated 40 million board feet (mmbf) of timber on an estimated 1,500 acres. A range of alternatives will be developed to achieve this estimated volume and include a no-action alternative. The proposed timber harvest is located within Tongass Forest Plan Management Areas K24 and K25, VCU's 674, 677, 678, 679, 680, 681, 682, and 686, on Prince of Wales Island, Alaska, on the Craig Ranger District of the Ketchikan Area of the Tongass National Forest.

EFFECTIVE DATE: Comments concerning the scope of this project should be received by November 30, 1995.

ADDRESSES: Please send written comments and suggestions concerning the scope of this project to: Forest Supervisor, Tongass National Forest, Ketchikan Area, Attn: Chasina EIS, Federal Building, Ketchikan, AK 99901.

FOR FURTHER INFORMATION CONTACT: Questions about the proposal and EIS should be directed to David Arrasmith, Planning Staff Officer, Tongass National Forest, Ketchikan Area, Federal Building, Ketchikan, Alaska 99901, telephone (907) 228–6304, or to Dale Kanen, District Ranger, Craig Ranger District, Tongass National Forest, 900 Main Street, Craig, Alaska 99921, telephone (907) 826–3272.

SUPPLEMENTARY INFORMATION: (1) Public Participation: Public participation will be an integral component of the study process and will be especially important at several points during the analysis. The first is during the scoping process. The Forest Service will be seeking information, comments, and assistance from Federal, State, and local agencies and individuals and organizations that may be interested in, or affected by, the proposed activities. The scoping process will include: (1) Identification of potential issues; (2) identification of issues to be analyzed in depth; and (3) elimination of insignificant issues or those which have been covered by a previous environmental review. Written scoping comments are being solicited through a scoping package that will be sent to the project mailing list. For the Forest Service to best use the scoping input, comments should be received by November 30, 1995.

Tentative issues identified for analysis in the EIS include the potential effects of the project on and the relationship of the project to: subsistence resources, old-growth ecosystem management and the maintenance of habitat for viable populations of wildlife and plant species, timber sale economics, timber supply, visual and recreational resources, anadromous fish habitat, soil and water resources, cultural resources, cave and karst resources, and others.

Based on results of scoping and the resource capabilities within the project area, alternatives including a ''no action'' alternative will be developed for the Draft Environmental Impact Statement (Draft EIS). The Draft EIS is projected to be filed with the Environmental Protection Agency (EPA) in May 1996. Public comment on the Draft EIS will be solicited for a minimum of 45 days from the date the Environmental Protection Agency publishes the notice of availability in the Federal Register. Subsistence hearings, as provided for in Section 810 of the Alaska National Interest Lands Conservation Act (ANILCA), are planned during this 45-day comment period. The Final EIS is anticipated by April 1997.

To assist the Forest Service in identifying and considering issues and concerns on the proposed action, comments during scoping and comments on the Draft EIS should be as specific as possible. It is also helpful if comments refer to specific pages or chapters of the draft statement.

Comments may also address the adequacy of the Draft EIS or the merits of the alternatives formulated and discussed in the statement. Reviewers may wish to refer to the Council on Environmental Quality regulations for implementing the procedural provisions of the National Environmental Policy Act at 40 CFR 1503.8 in addressing these points.

In addition, Federal court decisions have established that reviewers of Draft EIS statements must structure their participation in the environmental review of the proposal so that it is meaningful and alerts an agency to the reviewer's position and concerns. *Vermont Yankee Nuclear Power Corp* v. *NRDC,* 435 U.S. 519, 553, (1978). Environmental objections that could have been raised at the draft state may be waived if not raised until after completion of the Final EIS. *City of Angoon* v. *Hodel, Harris,* (9th Circuit, 1986), *Wisconsin Heritages, Inc.* v. *Harris,* 490 F. Supp. 1334, 1338 (E.D. Wis. 1980). The reason for this is to ensure that substantive comments and objections are made available to the Forest Service at a time when it can meaningfully consider them and respond to them in the Final EIS.

(2) Permits: Permits required for implementation include the following:

1. U.S. Army Corps of Engineers

—Approval of the discharge of dredged or fill materials in waters of the United States under Section 404 of the Clean Water Act
—Approval of the construction of structures or work in navigable waters of the United States under Section 10 of the Rivers and Harbors Act of 1899

2. Environmental Protection Agency

—National Pollutant Discharge Elimination (402) Permit
—Review Spill Prevention Control and Countermeasure Plan

3. State of Alaska, Department of Natural Resources

—Tideland Permit and Lease or Easement

4. State of Alaska, Department of Environmental Conservation

—Solid Waste Disposal Permit
—Certification of Compliance with Alaska Water Quality Standards (401 Certification)

Responsible Official: Bradley E. Powell, Forest Supervisor, Ketchikan Area, Tongass National Forest, Federal Building, Ketchikan, Alaska 99901, is the responsible official. The responsible official will consider the comments, responses, disclosure of environmental consequences, and applicable laws, regulations, and policies in making the decision and stating the rationale in the Record of Decision.

Dated: October 20, 1995.

Bradley E. Powell,

Forest Supervisor.

[FR Doc. 95–27244 Filed 11–1–95; 8:45 am]

BILLING CODE 3410–11–M

Grain Inspection, Packers and Stockyards Administration

Designation of the Michigan (MI) Agency for the Northern Michigan Region

AGENCY: Grain Inspection, Packers and Stockyards Administration (GIPSA).

ACTION: Notice.

SUMMARY: GIPSA announces the designation of Michigan Grain Inspection Services, Inc. (Michigan), to provide official services under the United States Grain Standards Act, as amended (Act).

EFFECTIVE DATES: December 1, 1995.

ADDRESSES: Janet M. Hart, Chief, Review Branch, Compliance Division, GIPSA, USDA, Room 1647 South Building, P.O. Box 96454, Washington, DC 20090–6454.

FOR FURTHER INFORMATION CONTACT: Janet M. Hart, telephone 202–720–8525.

SUPPLEMENTARY INFORMATION:

This action has been reviewed and determined not to be a rule or regulation as defined in Executive Order 12866 and Departmental Regulation 1512–1; therefore, the Executive Order and Departmental Regulation do not apply to this action.

In the June 1, 1995, Federal Register (60 FR 28570), GIPSA asked persons interested in providing official services in the Northern Michigan Region to submit an application for designation. Applications were due by June 30, 1995. Michigan, a currently designated official agency and the only applicant, applied for designation to provide official inspection services in the entire Northern Michigan Region.

GIPSA requested comments on the applicant in the August 1, 1995, Federal Register (60 FR 39148). Comments were due by August 30, 1995. GIPSA received no comments by the deadline.

GIPSA evaluated all available information regarding the designation criteria in Section 7(f)(l)(A) of the Act; and according to Section 7(f)(l)(B), determined that Michigan is able to provide official services in the geographic area for which they applied. Effective December 1, 1995, and ending April 30, 1998, concurrent with the end of their current designation, Michigan is designated to provide official inspection services in the geographic area specified in the June 1, 1995, Federal Register, in addition to the area they are already designated to serve.

Interested persons may obtain official services by contacting Michigan at 616–781–2711.

AUTHORITY: Pub. L. 94–582, 90 Stat. 2867, as amended (7 U.S.C. 71 *et seq.*)

Dated: October 26, 1995

Neil E. Porter

Director, Compliance Division

[FR Doc. 95–27167 Filed 11–1–95; 8:45 am]

BILLING CODE 3410–EN–F

Designation for the Amarillo (TX), Schaal (IA), and Wisconsin Areas

AGENCY: Grain Inspection, Packers and Stockyards Administration (GIPSA).

ACTION: Notice.

SUMMARY: GIPSA announces the designation of Amarillo Grain Exchange, Inc. (Amarillo), D. R. Schaal Agency, Inc. (Schaal), and Wisconsin Department of Agriculture, Trade and Consumer Protection (Wisconsin) to provide official services under the United States Grain Standards Act, as amended (Act).

EFFECTIVE DATES: December 1, 1995.

ADDRESSES: Janet M. Hart, Chief, Review Branch, Compliance Division, GIPSA, USDA, Room 1647 South Building, P.O. Box 96454, Washington, DC 20090–6454.

FOR FURTHER INFORMATION CONTACT: Janet M. Hart, telephone 202–720–8525.

SUPPLEMENTARY INFORMATION:

This action has been reviewed and determined not to be a rule or regulation as defined in Executive Order 12866 and Departmental Regulation 1512–1; therefore, the Executive Order and Departmental Regulation do not apply to this action.

In the June 1, 1995, Federal Register (60 FR 28570 and 28572), GIPSA asked persons interested in providing official services in the geographic areas assigned to Amarillo, Schaal, and Wisconsin to submit an application for designation. Applications were due by June 30, 1995. There were four applicants: Amarillo and Schaal applied for designation to provide official inspection services in the entire areas currently assigned to them; A.V. Tischer and Son, Inc., applied for designation to serve a portion of the Schaal area; and Wisconsin applied for designation to provide official inspection and Class X

and Y weighing services in the entire area currently assigned to them.

GIPSA requested comments on the applicants in the August 1, 1995, Federal Register (60 FR 39149). Comments were due by August 30, 1995. GIPSA received no comments by the deadline.

GIPSA evaluated all available information regarding the designation criteria in Section 7(f)(l)(A) of the Act; and according to Section 7(f)(l)(B), determined that Amarillo and Wisconsin are able to provide official services in the geographic areas for which they applied, and that Schaal is better able to provide official services in the geographic area for which they applied. Effective December 1, 1995, and ending November 30, 1998, Amarillo is designated to provide official inspection services in the geographic area specified in the June 1, 1995, Federal Register. Effective January 1, 1995, and ending November 30, 1998, Schaal is designated to provide official inspection services in the geographic area specified in the June 1, 1995, Federal Register. Effective December 1, 1995, and ending November 30, 1998, Wisconsin is designated to provide official inspection and Class X and Class Y weighing services in the geographic area specified in the June 1, 1995, Federal Register.

Interested persons may obtain official services by contacting Amarillo at 806–372–8511, Schaal at 515–444–3122, and Wisconsin at 608–224–5105.

Authority: Pub. L. 94–582, 90 Stat. 2867, as amended (7 U.S.C. 71 *et seq.*)

Dated: October 26, 1995.

Neil E. Porter,

Director, Compliance Division.

[FR Doc. 95–27166 Filed 11–1–95; 8:45 am]

BILLING CODE 3410–EN–F

COMMISSION ON CIVIL RIGHTS

Agenda and Notice of Public Meeting of the South Dakota Advisory Committee

Notice is hereby given, pursuant to the provisions of the rules and regulations of the U.S. Commission on Civil Rights, that a meeting of the South Dakota Advisory Committee to the Commission will convene on December 1, 1995, from 1:00 p.m. to 3:30 p.m. at the Holiday Inn City Centre, 100 West 8th Street, Sioux Falls, South Dakota 57106. The purpose of the meeting is to discuss current civil rights issues in the State, brief Committee members on Commission activities and plan future activities.

Persons desiring additional information, or planning a presentation to the Committee, should contact Committee Chairperson Jonathan Van Patten, 605–677–5361 or John F. Dulles, Director of the Rocky Mountain Regional Office, 303–866–1040 (TDD 303–866–1049). Hearing-impaired persons who will attend the meeting and require the services of a sign language interpreter should contact the Regional Office at least five (5) working days before the scheduled date of the meeting.

The meeting will be conducted pursuant to the provisions of the rules and regulations of the Commission.

Dated at Washington, DC, October 24, 1995.

Carol-Lee Hurley,

Chief, Regional Programs Coordination Unit.

[FR Doc. 95–27216 Filed 11–1–95; 8:45 am]

BILLING CODE 6335–01–P

DEPARTMENT OF COMMERCE

Foreign-Trade Zones Board

[Docket 62–95]

Foreign-Trade Zone 104, Savannah, GA; Proposed Foreign-Trade Subzone; CITGO Asphalt Refinery Company, (Crude Oil Refinery), Savannah, GA

An application has been submitted to the Foreign-Trade Zones Board (the Board) by the Savannah Airport Commission, grantee of FTZ 104, requesting special-purpose subzone status for the crude oil refinery of CITGO Asphalt Refinery Company, located in the Savannah, Georgia, area. The application was submitted pursuant to the provisions of the Foreign-Trade Zones Act, as amended (19 U.S.C. 81a–81u), and the regulations of the Board (15 CFR part 400). It was formally filed on October 20, 1995.

The refinery (28,000 barrels per day capacity; 45 employees) is located on a 100-acre site at Foundation Drive on the Savannah River in Chatham County, some 3 miles west of Savannah, Georgia. It is used to produce asphalt and refinery feedstocks, including gas, oil, distillate/fuel oil, kerosene, naphthas, and diesel oil. All of the crude oil (some 97 percent of inputs) is sourced abroad.

Zone procedures would exempt the refinery from Customs duty payments on the foreign products used in its exports. On domestic sales, the company would be able to choose the finished product duty rate (nonprivileged foreign status—NPF) on asphalt (duty-free). The duty on crude oil ranges from 5.25¢ to 10.5¢/barrel. The application indicates that the savings from zone procedures would help improve the refinery's international competitiveness.

In accordance with the Board's regulations, a member of the FTZ Staff has been designated examiner to investigate the application and report to the Board.

Public comment is invited from interested parties. Submissions (original and 3 copies) shall be addressed to the Board's Executive Secretary at the address below. The closing period for their receipt is January 2, 1996. Rebuttal comments in response to material submitted during the foregoing period may be submitted during the subsequent 15-day period (to January 16, 1996).

A copy of the application and accompanying exhibits will be available for public inspection at each of the following locations:

U.S. Department of Commerce District Office, 120 Barnard St., Room A–107, Savannah, Georgia 31401

Office of the Executive Secretary, Foreign-Trade Zones Board, Room 3716, U.S. Department of Commerce, 14th & Pennsylvania Avenue, NW Washington, DC 20230

Dated: October 26, 1995.

John J. Da Ponte, Jr.,

Executive Secretary.

[FR Doc. 95–27150 Filed 11–1–95; 8:45 am]

BILLING CODE 3510–DS–P

[Docket 63–95]

Foreign-Trade Zone 142, Camden, New Jersey; Proposed Foreign-Trade Subzone; CITGO Asphalt Refinery Company (Crude Oil Refinery) Paulsboro, NJ

An application has been submitted to the Foreign-Trade Zones Board (the Board) by the South Jersey Port Corporation, grantee of FTZ 142, requesting special-purpose subzone status for the crude oil refinery of CITGO Asphalt Refinery Company, located in Paulsboro, New Jersey, area. The application was submitted pursuant to the provisions of the Foreign-Trade Zones Act, as amended (19 U.S.C. 81a–81u), and the regulations of the Board (15 CFR part 400). It was formally filed on October 20, 1995.

The refinery (84,000 barrels per day capacity; 100 employees) is located at a 133-acres site at 4 Paradise Road, Gloucester County, near Paulsboro, New Jersey, some 10 miles south of Philadelphia. It is used to produce asphalt and refinery feedstocks, including gas oil, distillate/fuel oil, kerosene, naphthas, and diesel oil. All

of the crude oil (some 98 percent of inputs) is sourced abroad.

Zone procedures would exempt the refinery from Customs duty payments on the foreign products used in its exports. On domestic sales, the company would be able to choose the finished product duty rate (nonprivileged foreign status—NPF) on asphalt (duty-free). The duty on crude oil ranges from 5.25¢ to 10.5¢/barrel. The application indicates that the savings from zone procedures would help improve the refinery's international competitiveness.

In accordance with the Board's regulations, a member of the FTZ Staff has been designated examiner to investigate the application and report to the Board.

Public comment is invited from interested parties. Submissions (original and 3 copies) shall be addressed to the Board's Executive Secretary at the address below. The closing period for their receipt is January 2, 1996. Rebuttal comments in response to material submitted during the foregoing period may be submitted during the subsequent 15-day period (to January 16, 1996).

A copy of the application and accompanying exhibits will be available for public inspection at each of the following locations:

U.S. Department of Commerce District Office, 3131 Princeton Pike, Bldg. #6, Suite 100, Trenton, NJ 08648

Office of the Executive Secretary, Foreign-Trade Zones Board, Room 3716, U.S. Department of Commerce, 14th & Pennsylvania Avenue, NW Washington, DC 20230

Dated: October 26, 1995.

John J. Da Ponte, Jr.,

Executive Secretary.

[FR Doc. 95–27151 Filed 11–1–95; 8:45 am]

BILLING CODE 3510–DS–P

International Trade Administration

[A–122–050]

Racing Plates (Aluminum Horseshoes) From Canada; Termination of Antidumping Administrative Review

AGENCY: Import Administration, International Trade Administration, Department of Commerce.

ACTION: Notice of termination of Antidumping Administrative Review.

SUMMARY: On March 26, 1993, the Department of Commerce (the Department) initiated an administrative review of the antidumping finding on racing plates from Canada from one producer/exporter, covering the period February 1, 1992 through January 31, 1993 (58 FR 16397). We are now terminating that review because the producer/exporter is no longer interested in the review of the company.

EFFECTIVE DATE: November 2, 1995.

FOR FURTHER INFORMATION CONTACT: Gayle Longest or Kelly Parkhill, Office of Countervailing Compliance, Import Administration, International Trade Administration, U.S. Department of Commerce, 14th Street and Constitution Avenue, N.W., Washington, D.C. 20230; telephone: (202) 482–2786.

Background

On February 18, 1993, the Department received a request for an administrative review of this antidumping finding from Equine Forgings, a producer/exporter of the subject merchandise, for the period February 1, 1992 to January 31, 1993. No other interested party requested an administrative review. On March 26, 1993, the Department published, in the Federal Register (57 FR 16397), a notice of ''Initiation of Antidumping Administrative Review.'' On October 12, 1995, Equine Forgings withdrew its request for review.

Section 353.22(a)(5) of the Department's regulations stipulates that the Secretary may permit a party that requests a review to withdraw the request not later than 90 days after the date of publication of the notice of initiation of the requested review. This regulation also provides that the Secretary may extend the time limit for withdrawal of a request if it is reasonable to do so.

Because no significant work has been completed on this review, the aforementioned request for withdrawal does not unduly burden the Department. Therefore, under the circumstances presented in this review, we are waiving the 90-day requirement in § 353.22(a)(5). Accordingly, based on the producer/exporter's request for withdrawal, we are terminating this review.

This notice is published in accordance with § 353.22(a)(5) of the Department's regulations.

Dated: October 20, 1995.

Joseph A. Spetrini,

Deputy Assistant Secretary for Compliance.

[FR Doc. 95–27243 Filed 11–1–95; 8:45 am]

BILLING CODE 3510–DS–P

Extension of the Time Limit for Certain Countervailing Duty Administrative Reviews

AGENCY: Import Administration, International Trade Administration, Department of Commerce.

ACTION: Extension of the Time Limit for Certain Countervailing Duty Administrative Reviews.

SUMMARY: The Department of Commerce (the Department) is extending the time limit for preliminary and final results of certain administrative reviews of various countervailing duty orders pursuant to the Tariff Act of 1930, as amended by the Uruguay Round Agreements Act (hereinafter, ''the Act'').

EFFECTIVE DATE: November 2, 1995.

FOR FURTHER INFORMATION CONTACT: Judy Kornfeld or Maria MacKay, Office of Countervailing Compliance, Import Administration, International Trade Administration, U.S. Department of Commerce, 14th Street and Constitution Avenue, N.W., Washington, D.C. 20230; Telephone: (202) 482–2786.

POSTPONEMENT: Under the Act, the Department may extend the deadline for completion of administrative reviews if it determines that it is not practicable to complete the review within the statutory time limit of 365 days. Because of the time required to compile the questionnaire in accordance with the new requirements of the Act, the Department finds that it is not practicable to complete the following reviews within this time limit.

Product	Country	Case No.	Review period	Initiation date
Leather Wearing Apparel	Mexico	C–201–001	1994	5/15/95
Standard Chrysanthemums	Netherlands	C–421–601	1994	4/14/95
Ball Bearings	Singapore	C–559–802	1994	6/15/95
Cylindrical Roller Bearings	Singapore	C–559–802	1994	6/15/95
Needle Roller Bearings	Singapore	C–559–802	1994	6/15/95
Spherical Roller Bearings	Singapore	C–559–802	1994	6/15/95

Product	Country	Case No.	Review period	Initiation date
Spherical Plane Bearings	Singapore	C–559–802	1994	6/15/95
Ferrochrome	South Africa	C–791–001	1994	4/14/95
Ball Bearings	Thailand	C–549–802	1994	6/15/95
Certain Apparel	Thailand	C–549–401	1994	4/14/95
Hot Rolled Lead Bismuth CSP	United Kingdom	C–412–811	1994	4/14/95

In accordance with section 751(a)(3)(A) of the Act, the Department will extend the preliminary results of these reviews from a 245-day period to no later than a 365-day period and the final results of these reviews from a 120-day period to no later than a 180-day period.

Dated: October 24, 1995.

Joseph A. Spetrini,

Deputy Assistant Secretary for Compliance.

[FR Doc. 95–27152 Filed 11–1–95; 8:45 am]

BILLING CODE 3510–DS–P

President's Export Council: Meeting of the President's Export Council

AGENCY: International Trade Administration, U.S. Department of Commerce.

ACTION: Notice of a partially closed meeting.

SUMMARY: The President's Export Council (PEC) will hold a Full Council Meeting to discuss topics related to export expansion. The closed session will include briefings on foreign competitive practices, barriers to trade and other sensitive matters properly classified under Executive Order 12958. The portion of the meeting that will be open to the public will cover export finance, export controls and various bilateral and multilateral trading relationships, including Europe, Japan, the newly independent States, APEC, and Brazil.

The President's Export Council was established on December 20, 1973, and reconstituted May 4, 1979, to advise the President on matters relating to U.S. trade. It was most recently renewed on September 29, 1995, by Executive Order 12974. A Notice of Determination to close meetings or portions of meetings of the Council to the public on the basis of 5 U.S.C. 5522b(c)(1) has been approved in acccordance with the Federal Advisory Committee Act. A copy of the notice is available for public inspection and copying in the Central Reference and Records Inspection Facility, Room 6204, U.S. Department of Commerce, 202–482–4115.

DATES: November 8, 1995.

TIME: 1:30 p.m.–2:50 p.m. Closed Meeting; 3:00 p.m.–5:30 p.m. Open Meeting.

ADDRESSES: The Continental Room at The Watergate Hotel, 2650 Virginia Avenue, N.W., Washington, D.C. 20037. This program is physically accessible to people with disabilities. Requests for sign language interpretation or other auxiliary aids should be directed to Chad Hoseth or Paul Shaya, President's Export Council, Room 2015B, Washington, D.C. 20230. Seating is limited and will be on a first come, first serve basis.

FOR FURTHER INFORMATION CONTACT: Sylvia Prosak, Chad Hoseth, Paul Shaya President's Export Council, Room 2015B, Washington, D.C. 20230.

Dated: October 30, 1994.

Sylvia Lino Prosak,

Acting Staff Director and Executive Secretary, President's Export Council.

[FR Doc. 95–27204 Filed 11–1–95; 8:45 am]

BILLING CODE 3510–DR–P

Minority Business Development Agency

Business Development Center Applications: Jackson, MS

AGENCY: Minority Business Development Agency.

ACTION: Cancellation.

SUMMARY: The Minority Business Development Agency (MBDA) is cancelling the announcement to solicit competitive applications under its Minority Business Development Center (MBDC) Program to operate the Jackson, Mississippi MBDC. This solicitation was originally published in the Federal Register, Tuesday, October 17, 1995, Vol. 60, No. 200, page 53751.

11.800 Minority Business Development Center (Catalog of Federal Domestic Assistance).

Dated: October 27, 1995.

Donald L. Powers,

Federal Register Liaison Officer, Minority Business Development Agency.

[FR Doc. 95–27192 Filed 11–1–95; 8:45 am]

BILLING CODE 3510–21–M

COMMITTEE FOR THE IMPLEMENTATION OF TEXTILE AGREEMENTS

Adjustment of Import Limits for Certain Cotton, Wool and Man-Made Fiber Textile Products Produced or Manufactured in Korea

October 27, 1995.

AGENCY: Committee for the Implementation of Textile Agreements (CITA).

ACTION: Issuing a directive to the Commissioner of Customs adjusting limits.

EFFECTIVE DATE: November 1, 1995.

FOR FURTHER INFORMATION CONTACT: Ross Arnold, International Trade Specialist, Office of Textiles and Apparel, U.S. Department of Commerce, (202) 482–4212. For information on the quota status of these limits, refer to the Quota Status Reports posted on the bulletin boards of of each Customs port or call (202) 927–6707. For information on embargoes and quota re-openings, call (202) 482–3715.

SUPPLEMENTARY INFORMATION:

Authority: Executive Order 11651 of March 3, 1972, as amended; section 204 of the Agricultural Act of 1956, as amended (7 U.S.C. 1854).

The current limits for certain categories are being adjusted, variously, for swing, special shift, carryforward, carryover and carryforward used.

A description of the textile and apparel categories in terms of HTS numbers is available in the CORRELATION: Textile and Apparel Categories with the Harmonized Tariff Schedule of the United States (see Federal Register notice 59 FR 65531, published on December 20, 1994). Also see 60 FR 17328, published on April 5, 1995.

The letter to the Commissioner of Customs and the actions taken pursuant to it are not designed to implement all of the provisions of the Uruguay Round Agreements Act and the Uruguay Round Agreement on Textiles and Clothing, but are designed to assist only in the

implementation of certain of their provisions.

William J. Dulka,

Acting Chairman, Committee for the Implementation of Textile Agreements.

Committee for the Implementation of Textile Agreements

October 27, 1995.

Commissioner of Customs,
Department of the Treasury, Washington, DC 20229.

Dear Commissioner: This directive amends, but does not cancel, the directive issued to you on March 30, 1995, by the Chairman, Committee for the Implementation of Textile Agreements. That directive concerns imports of certain cotton, wool, man-made fiber, silk blend and other vegetable fiber textiles and textile products, produced or manufactured in Korea and exported during the twelve-month period which began on January 1, 1995 and extends through December 31, 1995.

Effective on November 1, 1995, you are directed to adjust the limits for the following categories, as provided for under the Uruguay Round Agreements Act and the Uruguay Round Agreement on Textiles and Clothing:

Category	Adjusted twelve-month limit [1]
Group I	
200–223, 224–V [2], 224–O [3], 225–229, 300–326, 360–363, 369–O [4], 400–414, 464–469, 600–629, 665–669 and 670–O [5], as a group.	428,191,796 square meters equivalent.
Sublevels within Group I	
201	1,874,549 kilograms.
224–V	10,463,196 square meters.
315	18,832,258 square meters.
611	3,748,218 square meters.
619/620	99,251,464 square meters.
624	8,208,680 square meters.
Sublevels within Group II	
239	1,019,370 kilograms.
333/334/335	270,895 dozen of which not more than 138,457 dozen shall be in Category 335.
336	58,867 dozen.
338/339	1,209,509 dozen.
340	685,130 dozen of which not more than 355,740 dozen shall be in Category 340–D [6].
345	118,067 dozen.
347/348	529,520 dozen.
351/651	233,049 dozen.
352	181,352 dozen.
433	14,497 dozen.
434	7,365 dozen.
442	52,429 dozen.
443	338,159 numbers.
444	56,603 numbers.
445/446	53,869 dozen.
448	37,226 dozen.
631	303,377 dozen pairs.
632	1,607,111 dozen pairs.
633/634/635	1,370,239 dozen of which not more than 155,383 dozen shall be in Category 633 and not more than 579,061 dozen shall be in Category 635.
636	274,685 dozen.
638/639	5,387,122 dozen.
640–D [7]	3,019,139 dozen.
641	1,081,672 dozen of which not more 40,858 dozen shall be in Category 641–Y [8].
644	1,228,569 numbers.
647/648	1,259,083 dozen.
Sublevel in Group III	
835	30,523 dozen.

[1] The limits have not been adjusted to account for any imports exported after December 31, 1994.

[2] Category 224–V: only HTS numbers 5801.21.0000, 5801.23.0000, 5801.24.0000, 5801.25.0010, 5801.25.0020, 5801.26.0010, 5801.26.0020, 5801.31.0000, 5801.33.0000, 5801.34.0000, 5801.35.0010, 5801.35.0020, 5801.36.0010 and 5801.36.0020.

[3] Category 224–O: all remaining HTS numbers in Category 224.

[4] Category 369–O: all HTS numbers except 4202.12.4000, 4202.12.8020, 4202.12.8060, 4202.92.1500, 4202.92.3015, 4202.92.6090 (Category 369-L) and 5601.21.0090.

[5] Category 670–O: all HTS numbers except 4202.12.8030, 4202.12.8070, 4202.92.3020, 4202.92.3030 and 4202.92.9025 (Category 670–L).

[6] Category 340–D: only HTS numbers 6205.20.2015, 6205.20.2020, 6205.20.2025 and 6205.20.2030.

[7] Category 640–D: only HTS numbers 6205.30.2010, 6205.30.2020, 6205.30.2030, 6205.30.2040, 6205.90.3030 and 6205.90.4030.

[8] Category 641–Y: only HTS numbers 6204.23.0050, 6204.29.2030, 6206.40.3010 and 6206.40.3025.

The Committee for the Implementation of Textile Agreements has determined that these actions fall within the foreign affairs exception to the rulemaking provisions of 5 U.S.C.553(a)(1).

Sincerely,

William J. Dulka,

Acting Chairman, Committee for the Implementation of Textile Agreements.

[FR Doc. 95–27191 Filed 11–1–95; 8:45 am]

BILLING CODE 3510–DR–F

DEPARTMENT OF DEFENSE

Department of the Air Force

Record of Decision (ROD) for the Disposal and Reuse of Portions of Grissom Air Force Base (AFB), IN

On October 11, 1995, the Air Force signed the Record of Decision (ROD) for the Disposal and Reuse of portions of Grissom AFB. The decisions included in this ROD have been made in consideration of, but not limited to, the information contained in the Final Environmental Impact Statement (FEIS) for the Disposal and Reuse of Grissom AFB, filed with the Environmental Protection Agency on September 16, 1994.

Grissom AFB realigned on September 30, 1994, pursuant to the Defense Base Closure and Realignment Act of 1990 (DBCRA) (Public Law 101–510), and recommendations of the Defense Base Closure and Realignment Commission. Grissom AFB realigned with the Air Force Reserve 434th Refueling Wing and the U.S. Army Reserves. Approximately 51 percent of Grissom AFB is being retained within a military cantonment area known as the Grissom Air Reserve Base. This ROD documents the decisions made by the Air Force on the division of parcels, the method by which parcels are to be conveyed or transferred, and the mitigation measures to be adopted to dispose of the remaining 49 percent of the base.

The decision in this ROD is to dispose of the base consistent with the reuse plan to allow for a balance between: the development of commercial, retail and industrial sites for job creation; the development of institutional, medical and recreational areas; the development of multi-family housing; and the retention of certain open spaces.

Approximately 1,344 fee acres are surplus to the needs of the Federal Government. The base has been divided into twenty-seven (27) parcels of land to include roadway and utility easements. One (1) parcel comprised of approximately 150 acres will be assigned to the U.S. Department of Justice for disposal as a public benefit conveyance to the State of Indiana for use as a prison. If this assignment is not consummated, the 150 acres will be combined with ten (1) parcels comprising approximately 766 acres planned for an Economic Development Conveyance to the Grissom Redevelopment Authority. One (1) parcel will be assigned to the U.S. Department of the Interior for disposal as a public benefit conveyance for recreational use. Three (3) parcels will

be assigned to the Department of Health and Human Services for disposal as a public benefit conveyance for public health purposes. Two (2) parcels will be offered for negotiated or public sale. Seven (7) parcels will be offered for public sale. The road network is an integral part of the all parcels and may be conveyed by negotiated sale. The utility systems, such as the electrical, natural gas and telephone systems are planned for either negotiated sales or public sales.

The implementation of the closure and reuse action and associated mitigation measures will proceed with minimal adverse impact to the environment. This action conforms with applicable Federal, State and local statutes and regulations, and all reasonable and practical efforts have been incorporated to minimize harm to the local public and the environment.

Any questions regarding this matter should be directed to Mr. John E.B. Smith or Ms. De Carlo Ciccel at (703) 696–5540. Correspondence should be sent to: AFBCA/SP, 1700 North Moore Street, Suite 2300, Arlington, VA 22209–2802.

Patsy J. Conner,

Air Force Federal Register Liaison Officer.

[FR Doc. 95–27212 Filed 11–1–95; 8:45 am]

BILLING CODE 3910–01–M

Department of the Army

Availability of Draft Environmental Impact Statement (DEIS) for the Proposed Construction of a Rail Connector for Fort Campbell, KY

AGENCY: Department of the Army, DOD.

ACTION: Notice of availability.

SUMMARY: Fort Campbell, Kentucky, requires rail service to deploy rapidly throughout the world. The U.S. Army owns 17 miles of track from Fort Campbell to the town of Hopkinsville, KY, and approximately three miles of track in the town of Hopkinsville. Currently, a lengthy switching procedure is required to move a train, necessary during contingency operations and possible during major exercises, to or from Fort Campbell. Fort Campbell cannot rapidly deploy the 101st Airborne Division and other units with the existing switching restrictions in Hopkinsville.

The Army action analyzed in this Draft Environmental Impact Statement (DEIS) is the construction of a rail connector between the government-owned line and the CSX line in Christian County, Kentucky. The environmental and socioeconomic impacts associated with alternative locations for this proposed rail connector are analyzed. Five alternative alignments, including the No-Action Alternative, have been evaluated:

The No-Action Alternative requires no change in the existing configuration or operation of the rail lines, or construction of any new ones. With the No-Action Alternative, trains from Fort Campbell would continue current operations, using the Hopkinsville Beltline and Interchange to switch five cars at a time to the CSX mainline.

The Hopkinsville Interchange Upgrade Alternative (Alternative 1) upgrades the existing connection between the government-owned rail line with the CSX mainline track via the Hopkinsville Beltline. This alignment involves construction of two relatively short rail connectors within the city limits of Hopkinsville and a 2.2 mile siding track parallel to the existing government line south of Hopkinsville.

The Hopkinsville Bypass North Alternative (Alternative 2N) connects the government line directly to the CSX mainline south of Hopkinsville and north of the Hopkinsville Bypass (KY 8546) with approximately 2.7 miles of new track. This alignment also includes the construction of a 2.2 mile siding parallel to the existing government line south of Hopkinsville.

The Hopkinsville Bypass South Alternative (Alternative 2S) connects the government line directly to the CSX mainline south of Hopkinsville and south of the Hopkinsville Bypass (KY 8546) with approximately 2.8 miles of new track. A 2.2 mile siding parallel to the existing government line south of Hopkinsville is also included in this alternative.

Alternative 3, the Masonville-Casky Alternative, connects the government line directly to the CSX mainline approximately six miles south of Hopkinsville with approximately 5.5 miles of track. A 2.2 mile siding for Alternative 3 is included in the alignment corridor. Short-term and long-term potentially significant adverse environmental consequences from all build alternatives evaluated in this document include impacts to cultural resources and water quality. Short-term potentially significant adverse impacts for Alternative 1 include increased traffic congestion and risk to public safety during construction. The No-Action Alternative will not meet mission requirements and will worsen existing traffic congestion and public safety risk in Hopkinsville. All build alternatives would alleviate these existing problems. Federal, State, and local officials; conservation groups; and interested businesses, groups, and individuals are invited to comment on the DEIS. In order to be considered, comments should be received no later than 45 days from the date the Environmental Protection Agency publishes this Notice of Availability in the Federal Register. Copies of the DEIS may be reviewed at Hopkinsville Community College Library Hopkinsville, Kentucky, phone—(502) 886–3921 and Fort Campbell Library, Building 38, 25th Street, Fort Campbell, Kentucky, phone—(502) 431–4827. In addition, a copy of the DEIS may be obtained by contacting Mr. Keith Rogan at (502) 625–7012.

ADDRESSES: Written comments may be forwarded to Louisville Army Engineer District, ATTN: CEORL–DL–B (Keith Rogan), P.O. Box 59, Louisville, KY 40201–0059.

FOR FURTHER INFORMATION CONTACT: Questions regarding this proposal may be directed to Mr. Rogan at (502) 625–7012.

Dated: October 27, 1995.

Raymond J. Fatz,

Acting Deputy Assistant Secretary of the Army (Environment, Safety and Occupational Health) OASA (IL&E).

[FR Doc. 95–27170 Filed 11–1–95; 8:45 am]

BILLING CODE 3710–08–M

DEPARTMENT OF ENERGY

Floodplain Statement of Findings for Remedial Action at the Uranium Mill Tailings Sites Located Near Maybell and Naturita, CO

AGENCY: U.S. Department of Energy.

ACTION: Notice of Floodplain Statement of Findings.

SUMMARY: This Floodplain Statement of Findings is prepared pursuant to Executive Order 11990 and 10 CFR Part 1022, Compliance with Floodplain/Wetlands Environmental Review Requirements. Under authority granted by the Uranium Mill Tailings Radiation Control Act (UMTRCA) of 1978, the Department of Energy (DOE) plans to clean up residual radioactive mill tailings and other contaminated materials at the former uranium mill tailings processing sites near Maybell and Naturita, Colorado. Contaminated material occurs in the 100-year floodplains of rivers and streams at and near these processing sites, and the 100-year floodplain of the San Miguel River at the Naturita site is contaminated. Remedial action activities to remove contaminated material would result in the temporary disturbance of the 100-

year floodplain. Contamination occurs along Johnson Wash and Lay Creek at the Maybell site; these areas may qualify for supplemental standards and would therefore remain mostly undisturbed.

Copies of the floodplain/wetlands assessments for the Maybell and Naturita sites are available from: National Technical Information Service, Department of Commerce, 5285 Port Royal Road, Springfield, VA 22161, (703) 487–4650.

FOR FURTHER INFORMATION ON THE NEPA PROCESS, CONTACT: Carol M. Borgstrom, Director, Office of NEPA Oversight, EH–25, U.S. Department of Energy, 1000 Independence Avenue, SW, Washington, D.C. 20585, (202) 586–4600 or 1–800–472–2756.

SUPPLEMENTARY INFORMATION:

Background

The Floodplain and Wetlands Involvement Notification for remedial action in the floodplains and wetlands at the Maybell and Naturita sites was published in the Federal Register in 1988 (53 FR 5033). The final environmental assessments (EA) were published in 1994 and 1995 for the Maybell (DOE/EA–0347) and Naturita (DOE/EA–0464) sites. In addition, the Finding of No Significant Impact (FONSI) for each of these sites was signed. Floodplain/Wetlands Assessments were prepared for each site and are attached to the EAs.

Project Descriptions

Maybell Site

The Maybell site is 25 miles (mi) west of the city of Craig, in a rural area of Moffat County in northwestern Colorado. The Maybell site was established by Trace Elements Corporation in 1955, and Umetco assumed control in 1957. A total of 2.6 million tons of ore was processed before the mill shut down in 1964. The tailings pile and most of the surrounding land contaminated with windblown tailings are in upland areas. However, water erosion has contaminated nearby Johnson Wash and a portion of Lay Creek; approximately 61,000 cubic yards (yd^3) of contaminated material are in these two drainages.

Johnson Wash begins in the sagebrush and pinon-juniper dominated land northeast of the Maybell site and extends south about 1.5 mi to Lay Creek. The wash is ephemeral and dry much of the year except at two springs that create a surface flow that floods 600 to 900 feet (ft) of the wash. Heavily grazed riparian vegetation occurs along 1 mi of the wash, indicating that ground water is near the surface. Most of Johnson Wash traverses a steep-sided valley, and sagebrush and/or pinon-juniper plant communities occur along its entire length.

Lay Creek is a meandering stream with a flat, broad floodplain. The creek contains water all year; ground water discharge is the source of this water during dry parts of the year.

Various species of aquatic plants form a dense growth along the stream, while higher areas are dominated by black greasewood and big sagebrush. The area is heavily grazed by sheep and cattle.

The proposed action at the Maybell site is to stabilize the contaminated material in place at the existing tailings pile. In addition, a supplemental standards application will be prepared for most of the contaminated areas along Johnson Wash and Lay Creek. The rationale for supplemental standards at these two drainages is based on ecological, radiological, geomorphological, socioeconomic, and engineering criteria (see the Floodplain/Wetlands Assessment for more details). Two areas of contamination, totaling about 12 acres (ac), will be cleaned up along Johnson Wash and Lay Creek; one is in the upper portion of the wash, in the windblown contaminated area, and the other is in the lower portion of the wash, near its confluence with Lay Creek. Currently, additional radiological characterization is taking place along Johnson Wash and Lay Creek to verify the levels of contamination along these two drainages. These surveys may identify additional areas that need to be cleaned up. At this time, it is anticipated that any additional clean-up along Johnson Wash and Lay Creek will be minimal and that most of these two drainages will continue to qualify for supplemental standards. Land disturbed in the 100-year floodplains of Johnson Wash and Lay Creek would be recontoured, covered with topsoil, and revegetated with native plant species.

Alternatives considered include no action and clean-up of all the contaminated material along Johnson Wash and Lay Creek. Implementation of no action would not be consistent with UMTRCA and would not be protective of human health and the environment since it would not meet Environmental Protection Agency (EPA) standards (40 CFR 192). Clean-up of all the contaminated material would cause more environmental harm than good, given the occurrence of wetlands and other sensitive habitats along these drainages and the relatively low levels of contamination.

Naturita Site

The Naturita site is 2 mi northwest of the unincorporated town of Naturita in Montrose County, Colorado. The Naturita mill site was constructed in 1930. It became operational in 1939, when it was modified for the recovery of vanadium. Uranium milling began in 1942 and continued until 1963, when the mill was shut down. The tailings were removed from the site in 1979 for reprocessing at a facility in the hills about 3 mi south of the site. There is an estimated 542,400 yd^3 of contaminated material on 244 acres of land. Approximately 263,000 yd^3 of this contaminated material covers 31 ac in the 100-year floodplain of the San Miguel River.

The San Miguel River originates in the San Juan Mountains near Telluride, Colorado, and joins the Dolores River 20 mi downstream from the Naturita site. In the vicinity of the Naturita site, the river has a drainage area of 1209 square miles. Flow in the river varies seasonally with the average maximum and minimum flows of 2000 and 330 cubic feet per second. A vegetated riparian zone occurs along the river with plant communities growing in distinct zones. The zone nearest the river consists of vegetation growing on the frequently flooded rocky bars; cottonwood and willow seedlings are common here. Further back and a bit higher in elevation, thick growths of cottonwood and willow saplings are typically encountered. Mature cottonwood stands frequent higher terraces along the river and generally give way to upland plant communities.

The proposed action is to remove the contaminated material from the floodplain of the river and upland areas and stabilize it in an off-site disposal cell. This clean-up effort will disturb 31 contaminated acres in the 100-year floodplain of the river. The average depth of the excavation in this area would be 3 ft. The removal of contaminated material from the upper and lower mill yard terraces would increase the width of the 100-year floodplain. Clean fill material would be backfilled into excavated areas as the contaminated material is removed to minimize any increase in the width of the 100-year floodplain. After completion of remedial action, all disturbed areas would be recontoured to promote surface drainage and the man-made upper and lower mill yard terraces would be replaced with a gentle slope. As a result of this, it is anticipated that the 100-year floodplain will increase from 31 to 38 ac after the completion of this work. The restoration

of the floodplain following remedial action is not expected to affect the path or flow regime of the San Miguel River. All disturbed areas would be revegetated as soon as possible after completion of remedial action to minimize erosion.

Alternatives considered were on-site stabilization of the contaminated material, no action, and other off-site disposal sites. The impacts to the 100-year floodplain would be the same as described above for other off-site disposal locations. The disposal of the contaminated material on-site would also result in the disturbance of the 100-year floodplain as described for the proposed action. No action would result in leaving the contaminated material in the floodplain of the San Miguel River and would not result in a reduction in public health effects. In addition, the contaminated material would continue to be susceptible to erosion, particularly during periods of high water, which could result in negative impacts to the environment. In addition, no action would not be consistent with the intent of UMTRCA and would not result in compliance with the EPA environmental protection standards.

Findings

Maybell Site

Little of Johnson Wash and Lay Creek, would be disturbed if supplemental standards were successfully applied to these areas. It is likely that a supplemental standards application would be successful, given that the areas are ecologically sensitive, are remote from human habitation, and that they contain relatively low levels of contamination.

The clean-up of contaminated material of Johnson Wash and Lay Creek would provide a long-term benefit by preventing impacts to human health and the environment. Potential impacts to the 100-year floodplain that may result from the excavation of contaminated material from Johnson Wash would be mitigated by the following measures:

- Erosion control measures would be implemented to minimize erosion during clean-up activities along Johnson Wash and Lay Creek.
- The 12 ac of land within the 100-year floodplain of Johnson Wash and Lay Creek that would be disturbed would be recontoured and revegetated following the completion of remedial action.

The excavation of contaminated material from the floodplain of Johnson Wash and Lay Creek is designed to conform to applicable federal and state regulations. Permits required under these regulations will be obtained before the start of remedial action. Wetlands along Johnson Wash and Lay Creek have been delineated; the U.S. Army Corps of Engineers (USACE) has agreed with this delineation. Consultation is ongoing with other federal agencies, such as the U.S. Fish and Wildlife Service (FWS) and Bureau of Land management (BLM), and with the state of Colorado.

Based on the above, it was determined that the impacts to the floodplain along Johnson Wash and Lay Creek would be insignificant.

Naturita Site

The clean-up of contaminated material from the floodplain of the San Miguel River in the area of the Naturita site would be a long-term benefit because of the reduction of impacts to potential human health and the environment. Potential impacts due to excavation of contaminated material from the floodplain of the San Miguel River would be mitigated by the following measures.

- All excavated areas would be backfilled with clean fill as soon as clean-up was completed.
- Riparian vegetation along the river not subject to excavation would be left intact as much as possible to reduce river velocities and associated erosion during flood events.
- All excavated areas would be regraded to a gentle slope to promote positive drainage.
- The upper and lower mill yard terraces would be given a gentle slope to promote positive drainage.
- All areas would be revegetated as soon as possible following clean-up to minimize erosion into the river.

The excavation of contaminated material from the floodplain of the San Miguel River is designed to conform to applicable federal and state regulations. Permits required under these regulations will be obtained before the start of remedial action. Wetlands along the river have been delineated, USACE has agreed with this delineation, and a 404 Permit is being prepared. Consultation is ongoing with other federal agencies, such as FWS and BLM, as well as with the state of Colorado and local government agencies.

Based on the above, it was determined that the impacts to the floodplain along the San Miguel River would be insignificant.

Issued at Albuquerque, New Mexico, on July 21, 1995.

W. John Arthur III,

Acting Assistant Manager for Environmental/ Project Management.

[FR Doc. 95–27231 Filed 11–1–95; 8:45 am]

BILLING CODE 6450–01–P

Advisory Committee on External Regulation of Department of Energy Nuclear Safety; Open Meeting

AGENCY: Department of Energy.

ACTION: Notice of Open Meeting.

SUMMARY: Pursuant to the provisions of the Federal Advisory Committee Act (Pub. L. 92–463, 86 Stat. 770), notice is hereby given of the eighth and final meeting of the Advisory Committee on External Regulation of Department of Energy Nuclear Safety.

DATE AND TIMES: The Committee session will be held at the Hyatt Regency Dallas/Fort Worth, East Tower, Dallas/ Fort Worth Airport, Texas. The session will begin on Monday, November 27 at 1:00 pm and adjourn at 6:00 pm. The Committee session will continue at the same location on Tuesday, November 28, beginning at 8:00 am and adjourning at 12:00 pm.

ADDRESSES: Hyatt Regency Dallas/Fort Worth—East Tower, Enterprise Ballroom—Sector 2, International Parkway, Dallas/Fort Worth Airport, Texas 75261, (214) 453–1234.

FOR FURTHER INFORMATION CONTACT: Thomas H. Isaacs, Executive Director, Advisory Committee on External Regulation of Department of Energy Nuclear Safety, 1726 M Street, NW, Suite 401, Washington, DC 20036, (202) 254–3826.

SUPPLEMENTARY INFORMATION: The purpose of the Committee is to provide the Secretary of Energy, the White House Council on Environmental Quality, and the Office of Management and Budget with advice, information, and recommendations on how new and existing Department of Energy (DOE) nuclear facilities and operations, except those operations covered under Executive Order 12344 (Naval Propulsion Program), might best be regulated with regard to safety. The Department currently self-regulates many aspects of nuclear safety, pursuant to the Atomic Energy Act of 1954, as amended. The Committee consists of members drawn from Federal and State government and the private sector, and is co-chaired by John F. Ahearne, Lecturer in Public Policy, Duke University, and Director, The Sigma Xi Center, and Gerard F. Scannell, President of the National Safety Council. Members were chosen with environment, safety, and health backgrounds, balanced to represent different public, Federal, State, Tribal, regulatory, and industry interests and experience.

Purpose of the Meeting: The Committee will discuss a draft of its

final report, which is scheduled to be issued in December 1995.

Tentative Agenda: In addition to conducting deliberations related to its charter, the Committee will discuss a revised draft of its final report.

Public Participation: This is the final meeting of the Committee. Members of the public who wish to address the Committee may register in advance by calling Linda James Hanus (602) 570–7755. All comments that have been submitted to the Committee during its tenure are being considered in development of the final report. The Committee Co-Chairs are empowered to conduct the meeting in a fashion that will facilitate the orderly conduct of business.

Transcripts and Minutes: A meeting transcript and minutes will be available for public review and copying four to six weeks after the meeting at the DOE Freedom of Information Public Reading Room, 1E–1990, Forrestal Building, 1000 Independence Avenue, SW, Washington, DC 20585 between 9:00 am and 4:00 pm, Monday through Friday, except Federal holidays. The transcript will also be made available at the Department's Field Office Reading Room locations.

Issued at Washington, DC on October 30, 1995.

Rachel M. Samuel,

Acting Deputy Advisory Committee Management Officer.

[FR Doc. 95–27234 Filed 11–1–95; 8:45 am]

BILLING CODE 6450–01–P

Federal Energy Regulatory Commission

[Docket No. ER93–730–001, et al.]

Wholesale Power Services, Inc., et al.; Electric Rate and Corporate Regulation Filings

October 26, 1995.

Take notice that the following filings have been made with the Commission:

1. Wholesale Power Services, Inc.

[Docket No. ER93–730–001]

Take notice that on October 23, 1995, Wholesale Power Services, Inc. tendered its compliance filing in this docket.

Comment date: November 9, 1995, in accordance with Standard Paragraph E at the end of this notice.

2. JEB Corporation

[Docket No. ER94–1432–004]

Take notice that on October 17, 1995, JEB Corporation (JEB) filed certain information as required by the Commission's letter order dated September 8, 1994, order in Docket No. ER94–1432–000. Copies of JEB's informational filing are on file with the Commission and are available for public inspection.

3. Electric Exchange

[Docket No. ER95–111–003]

Take notice that on October 18, 1995, Electric Exchange (Electric) filed certain information as required by the Commission. Copies of Electric's informational filing are on file with the Commission and are available for public inspection.

4. Kaztex Energy Ventures, Inc.

[Docket No. ER95–295–004]

Take notice that on October 11, 1995, Kaztex Energy Ventures, Inc. (Kaztex Energy) filed certain information as required by the Commission. Copies of Kaztex Energy's informational filing are on file with the Commission and are available for public inspection.

5. New York State Electric & Gas Corporation

[Docket No. ER96–103–000]

Take notice that on October 17, 1995, New York State Electric & Gas Corporation (NYSEG), tendered for filing proposed changes in its FERC Rate Schedules for borderline sales to Pennsylvania Electric Co., Massachusetts Electric Co., Niagara Mohawk Power Corp., Rochester Gas & Electric Co., Central Hudson Gas & Electric Co., Orange & Rockland Utilities, Inc., Consolidated Edison Company of New York, Inc., and Connecticut Light & Power Co., (Rate Schedule FERC Nos. 20, 27, 28, 30, 32, 33, 35 and 105, respectively). NYSEG is filing the information pursuant to 35.13 of the Commission's Rules of Practice and Procedure, 18 CFR 35.13. NYSEG is requesting an effective date of August 19, 1995 for the tariff rate changes. Accordingly, NYSEG has also requested a waiver of Commission's notice requirements for good cause shown.

NYSEG has sent a copy of this filing to Central Hudson Gas & Electric Corp.; Consolidated Edison Company of New York, Inc.; Niagara Mohawk Power Corp.; Orange & Rockland Utilities, Inc.; Rochester Gas & Electric Corp.; New York State Public Service Commission; Pennsylvania Electric Co.; Pennsylvania Public Utility Commission; Massachusetts Electric Co.; Massachusetts Dept. of Public Utilities; Connecticut Light & Power Co.; and the Connecticut Dept. of Public Utility Control.

Comment date: November 8, 1995, in accordance with Standard Paragraph E at the end of this notice.

6. American Electric Power Service Corporation

[Docket No. ER95–1596–000]

Take notice that on October 13, 1995, the American Electric Power Service Corporation (AEPSC) on behalf of the AEP Companies, submitted an Amendment in its filing in this Docket.

The Amendment revises the lists of eligible entities and qualifying receiving parties contained in Appendix II to the Power Sales Tariff filed as an initial rate schedule on August 21, 1995. Waiver of minimum notice requirements was requested to permit designation of the earliest possible effective date.

A copy of the filing was served upon parties of record, the eligible entities listed in the revised Appendix II and the affected state regulatory commissions.

Comment date: November 6, 1995, in accordance with Standard Paragraph E at the end of this notice.

7. Northern States Power Company (Wisconsin)

[Docket No. ER95–1733–000]

Take notice that on October 16, 1995, Northern States Power Company (Wisconsin) tendered for filing an Amendment to the Power and Energy Supply Agreement by and between NSPW and the City of Barron, Wisconsin, dated August 30, 1995.

Comment date: November 8, 1995, in accordance with Standard Paragraph E at the end of this notice.

8. Indianapolis Power & Light Company

[Docket No. ER96–59–000]

Take notice that Indianapolis Power & Light Company (IPL) on October 11, 1995, tendered for filing proposed changes in its FERC Rate Schedule No. 21. The rate schedule supplement consists of Amendment No. 6 dated October 10, 1995, to the Agreement dated October 9, 1986 (1986 Agreement), which sets forth the rates, charges, terms and conditions for wholesale electric service to Wabash Valley Power Association, Inc. (Wabash Valley). Amendment No. 6 extends the 1986 Agreement for a successive term of six (6) months and provides for automatic renewal of the contract unless either Wabash Valley or IPL provide notice of termination.

The only customer affected by this filing in Wabash Valley, which was executed said Amendment No. 6 and has concurred in this filing.

Copies of this filing were sent to Wabash Valley and to the Indiana Utility Regulatory Commission.

Comment date: November 9, 1995, in accordance with Standard Paragraph E at the end of this notice.

9. PacifiCorp

[Docket No. ER96–71–000]

Take notice that on October 12, 1995, PacifiCorp, tendered for filing in accordance with 18 CFR Part 35 of the Commission's Rules and Regulations, a supplemental filing for PacifiCorp Rate Schedule FERC Nos. 258, 267, 306 and 320 associated with wholesale power sales to Sierra Pacific Power Company (SPP), Arizona Public Service Company (APS) and Public Service Company of Colorado (PSCo).

PacifiCorp requests an effective date of January 1, 1996.

Copies of this filing were supplied to SPP, APS, PSCo, the Public Utility Commission of Oregon and the Washington Utilities and Transportation Commission.

A copy of this filing may be obtained from PacifiCorp's Regulatory Administration Department's Bulletin Board System through a personal computer by calling (503) 464–6122 (9600 baud, 8 bits, no parity, 1 stop bit).

Comment date: November 7, 1995, in accordance with Standard Paragraph E at the end of this notice.

10. Entergy Power, Inc.

[Docket No. ER96–94–000]

Take notice that on October 16, 1995, Entergy Power, Inc. (Entergy Power), tendered for filing two Notices of Cancellation for sales to Oglethorpe Power Corporation and AES Power, Inc.

Entergy Power requests an effective date of January 1, 1994 for the Notice of Cancellation for Entergy Power Rate Schedule FERC No. 4. Entergy Power requests an effective date of July 1, 1995 for the Notice of Cancellation for Entergy Power Rate Schedule FERC No. 13. Entergy Power requests waiver of the Commission's notice requirements under § 35.15 of the Commission's Regulations.

Comment date: November 8, 1995, in accordance with Standard Paragraph E at the end of this notice.

11. Southern Company Services, Inc.

[Docket No. ER96–95–000]

Take notice that on October 17, 1995, Southern Company Services, Inc., acting on behalf of Alabama Power Company, Georgia Power Company, Gulf Power Company, Mississippi Power Company, and Savannah Electric and Power Company (Southern Companies), tendered for filing letter agreements concerning fuel accounting procedures at the James H. Miller, Jr. Steam Electric Generating Plant. The letter agreements set forth effect of the revised procedures on Unit Power Sales Agreements between Southern Companies and Florida Power & Light Company, Florida Power Corporation, City of Tallahassee, and Jacksonville Electric Authority, respectively.

Comment date: November 8, 1995, in accordance with Standard Paragraph E at the end of this notice.

12. Southern California Edison Company

[Docket No. ER96–96–000]

Take notice that on October 17, 1995, Southern California Edison Company tendered for filing a Notice of Cancellation of FERC Rate Schedule Nos. 148.1, and 148.3.

Comment date: November 9, 1995, in accordance with Standard Paragraph E at the end of this notice.

13. PECO Energy Company

[Docket No. ER96–97–000]

Take notice that on October 17, 1995, PECO Energy Company (PECO), filed a Service Agreement dated September 11, 1995, with Dayton Power and Light Company (Dayton) under PECO's FERC Electric Tariff Original Volume No. 1 (Tariff). The Service Agreement adds Dayton as a customer under the Tariff.

PECO requests an effective date of September 20, 1995 for the Service Agreement.

PECO states that copies of this filing have been supplied to Dayton and to the Pennsylvania Public Utility Commission.

Comment date: November 8, 1995, in accordance with Standard Paragraph E at the end of this notice.

14. Nevada Power Company

[Docket No. ER96–98–000]

Take notice that on October 17, 1995, Nevada Power Company (Nevada Power), tendered for filing a proposed Agreement for the Sale of Economy Energy by Nevada Power Company to the Colorado River Commission (Agreement) having a proposed effective date of September 1, 1995.

The Agreement provides for the sale of economy energy to the Colorado River Commission (CRC) in block amounts, using the CRC's Western Area Power Administration (Western) allocation of capacity. Economy sales to the CRC will only be possible from time to time when they can be made above Nevada Power's incremental energy cost, but at or below the price of economy energy available from other suppliers.

Copies of this filing have been served on the CRC and the Nevada Public Service Commission.

Comment date: November 8, 1995, in accordance with Standard Paragraph E at the end of this notice.

15. Entergy Services, Inc.

[Docket No. ER96–99–000]

Take notice that on October 17, 1995, Entergy Services, Inc. tendered for filing an executed copy of the Interchange Agreement between the City of Tallahassee, Florida and Arkansas Power & Light Company, Gulf States Utilities Company, Louisiana Power & Light Company, Mississippi Power & Light Company, New Orleans Public Service Inc. and Entergy Services, dated as of September 15, 1995.

Comment date: November 9, 1995, in accordance with Standard Paragraph E at the end of this notice.

16. Entergy Services, Inc.

[Docket No. ER96–100–000]

Take notice that on October 17, 1995, Entergy Services, Inc. (Entergy Services), as agent for Arkansas Power & Light Company (AP&L), tendered for filing the First Amendment to the Power Agreement between AP&L and the City of North Little Rock, Arkansas (City), dated as of March 31, 1994. The First Amendment provides for the creation of an additional point of delivery thereunder. Entergy Services requests an effective date of January 1, 1996.

Comment date: November 8, 1995, in accordance with Standard Paragraph E at the end of this notice.

17. Entergy Power, Inc.

[Docket No. ER96–101–000]

Take notice that on October 17, 1995, Entergy Power, Inc. (EPI), tendered for filing an Interchange Agreement with Oklahoma Gas and Electric Company.

EPI requests an effective date for the Interchange Agreement that is one day after the date of filing, and requests waiver of the Commission's notice requirements in § 35.11 of the Commission's Regulations.

Comment date: November 8, 1995, in accordance with Standard Paragraph E at the end of this notice.

18. Pacific Gas and Electric Company

[Docket No. ER96–102–000]

Take notice that on October 17, 1995, Pacific Gas and Electric Company (PG&E), tendered for filing proposed changes in rates for Sacramento Municipal Utility District (SMUD) and Modesto Irrigation District (MID), to be effective July 1, 1995, developed using a rate adjustment mechanism previously

agreed by PG&E and SMUD for Rate Schedule FERC Nos. 88, 91, 138, 175 and 176 and by PG&E and MID for Rate Schedule 116.

Copies of this filing have been served upon SMUD, MID, and the California Public Utilities Commission.

Comment date: November 8, 1995, in accordance with Standard Paragraph E at the end of this notice.

19. IES Utilities Inc.

[Docket No. ES94–20–003]

Take notice that on October 23, 1995, IES Utilities Inc. (IES) filed an amendment to its application in Docket Nos. ES94–20–000, ES94–20–001 and ES94–20–002, under § 204 of the Federal Power Act. By letter orders dated April 11, 1994, (67 FERC ¶ 62,040) and July 13, 1995, (72 FERC ¶ 62,030) IES was authorized to issue, over a two-year period, not more than $250 million of long-term notes or collateral trust bonds (Bonds). IES indicates that it has placed $50 million of Bonds and requests that the authorization be amended to include Subordinated Debentures in the securities authorized to be issued under the remaining $200 million authority.

Comment date: November 13, 1995, in accordance with Standard Paragraph E at the end of this notice.

20. Duquesene Light Company

[Docket No. ES96–3–000]

Take notice that on October 10, 1995, Duquesne Light Company filed an application under § 204 of the Federal Power Act seeking authorization to issue promissory notes and other evidences of indebtedness, from time to time, in an aggregate amount not to exceed $600 million principal amount outstanding at any one time, during the period from the date of the Commission's Order in this Docket through October 31 1997, with final maturities not later than October 31, 1998.

Comment date: November 9, 1995, in accordance with Standard Paragraph E at the end of this notice.

21. UtiliCorp United Inc.

[Docket No. ES96–5–000]

Take notice that on October 18, 1995, UtiliCorp United Inc. filed an application under § 204 of the Federal Power Act seeking authorization to issue five-year corporate guaranties in an amount not to exceed $270 million in support of borrowings to be made by a UtiliCorp subsidiary or subsidiaries in connection with the acquisition of interests in an Australian electric distribution company. Such guarantees would be entered into by UtiliCorp prior to February 28, 1996.

UtiliCorp also requests that the guarantees be exempted from the Commission's competitive bidding and negotiated placement requirements.

Comment date: November 17, 1995, in accordance with Standard Paragraph E at the end of this notice.

22. Central Illinois Public Service Company

[Docket No. ES96–6–000]

Take notice that on October 23 1995, Central Illinois Public Service Company filed an application under § 204 of the Federal Power Act seeking authorization to issue unsecured promissory notes or commercial paper, from time to time, in an aggregate principal amount not to exceed $150 million outstanding at any one time, during the period from January 1, 1996 to December 31, 1997, with final maturities not later than December 31, 1998.

Comment date: November 22, 1995, in accordance with Standard Paragraph E at the end of this notice.

Standard Paragraph

E. Any person desiring to be heard or to protest said filing should file a motion to intervene or protest with the Federal Energy Regulatory Commission, 825 North Capitol Street, N.E., Washington, D.C. 20426, in accordance with Rules 211 and 214 of the Commission's Rules of Practice and Procedure (18 CFR 385.211 and 18 CFR 385.214). All such motions or protests should be filed on or before the comment date. Protests will be considered by the Commission in determining the appropriate action to be taken, but will not serve to make protestants parties to the proceeding. Any person wishing to become a party must file a motion to intervene. Copies of this filing are on file with the Commission and are available for public inspection.

Lois D. Cashell,

Secretary.

[FR Doc. 95–27199 Filed 11–1–95; 8:45 am]

BILLING CODE 6717–01–P

[Docket No. ER96–81–000, et al.]

Wisconsin Public Service Corporation, et al.; Electric Rate and Corporate Regulation Filings

October 25, 1995.

Take notice that the following filings have been made with the Commission:

1. Wisconsin Public Service Corporation

[Docket No. ER96–81–000]

Take notice that Wisconsin Public Service Corporation (WPSC) on October 13, 1995, tendered for filing Supplement No. 9 to its service agreement with Consolidated Water Power Company (CWPCO). Supplement No. 9 provides CWPCO's contract demand nominations for January 1996—December 2000, under WPSC's W–3 tariff and CWPCO's applicable service agreement.

The Company states that copies of this filing have been served upon CWPCO and to the State Commissions where WPSC serves at retail.

Comment date: November 8, 1995, in accordance with Standard Paragraph E at the end of this notice.

2. Wisconsin Public Service Corporation

[Docket No. ER96–82–000]

Take notice that Wisconsin Public Service Corporation (WPSC) on October 13, 1995, tendered for filing Supplement No. 7 to its partial requirements service agreement with Manitowoc Public Utilities (MPU), Manitowoc County, Wisconsin. Supplement No. 7 provides MPU's contract demand nominations for January 1996—December 2000, under WPSC's W–2 partial requirements tariff and MPU's applicable service agreement.

The Company states that copies of this filing have been served upon MPU and to the State Commissions where WPSC serves at retail.

Comment date: November 8, 1995, in accordance with Standard Paragraph E at the end of this notice.

3. PECO Energy Company

[Docket No. ER96–83–000]

Take notice that on October 13, 1995, PECO Energy Company (PECO) filed a Service Agreement dated September 26, 1995, with Enron Power Marketing, Inc. (ENRON) under PECO's FERC Electric Tariff Original Volume No. 1 (Tariff). The Service Agreement adds ENRON as a customer under the Tariff.

PECO requests an effective date of September 26, 1995 for the Service Agreement.

PECO states that copies of this filing have been supplied to ENRON and to the Pennsylvania Public Utility Commission.

Comment date: November 8, 1995, in accordance with Standard Paragraph E at the end of this notice.

4. San Diego Gas & Electric Company

[Docket No. ER96–84–000]

Take notice that on October 13, 1995, San Diego Gas & Electric Company (SDG&E) tendered for filing a Notice of Termination for the Interchange Agreement between SDG&E and Howell Power Systems, Inc., (SDG&E Rate Schedule FERC No. 93). Termination of the Interchange Agreement is to be effective as of November 1, 1995. SDG&E requests waiver of the applicable notice requirements.

Copies of this filing were served upon the Public Utilities Commission of the State of California and Howell Power Systems, Inc.

Comment date: November 8, 1995, in accordance with Standard Paragraph E at the end of this notice.

5. Florida Power Corporation

[Docket No. ER96–85–000]

Take notice that on October 13, 1995, Florida Power Corporation tendered for filing a tariff providing for sales of power and energy at variable rates at or below fully associated costs of the units providing the power and energy but not less than the Company's incremental energy costs. The tariff provides for sales of unit power, system power and purchased power.

Comment date: November 8, 1995, in accordance with Standard Paragraph E at the end of this notice.

6. Entergy Services, Inc.

[Docket No. ER96–86–000]

Take notice that on October 13, 1995, Entergy Services, Inc. (Entergy Services) on behalf of Arkansas Power & Light Company, Gulf States Utilities Company, Louisiana Power & Light Company, Mississippi Power & Light Company, and New Orleans Public Service Inc. (Entergy Operating Inc.), tendered for filing a First Amendment (Amendment) between Entergy Services, Inc. and Central and South Electric West Services, Inc. (CSWS), acting as agent for Southwestern Electric Power Company (SEP). Entergy Services states that the Amendment modifies the transmission arrangements under which the Entergy Operating Companies will provide CSWS non-firm transmission service under Entergy Services' Transmission Service Tariff.

Comment date: November 8, 1995, in accordance with Standard Paragraph E at the end of this notice.

7. Louisville Gas and Electric Company

[Docket No. ER96–87–000]

Take notice that on October 13, 1995, Louisville Gas and Electric Company tendered for filing copies of service agreements between Louisville Gas and Electric Company and Louis Dreyfus Electric Power Inc., and also between Louisville Gas and Electric Company and Enron Power Marketing, Inc. under Rate GSS.

Comment date: November 8, 1995, in accordance with Standard Paragraph E at the end of this notice.

8. Entergy Services, Inc.

[Docket No. ER96–88–000]

Take notice that on October 16, 1995, Entergy Services, Inc. (Entergy Services) on behalf of Arkansas Power & Light Company, Gulf States Utilities Company, Louisiana Power & Light Company, Mississippi Power & Light Company, and New Orleans Public Service Inc. (Entergy Operating Inc.), tendered for filing a First Amendment to the Non-Firm Transmission Service Agreement (Amendment) between Entergy Services, Inc. and Entergy Power, Inc. Entergy Services states that the Amendment modifies the transmission arrangements under which the Entergy Operating Companies will provide Entergy Power, Inc. non-firm transmission service under Entergy Services' Transmission Service Tariff.

Comment date: November 8, 1995, in accordance with Standard Paragraph E at the end of this notice.

9. Florida Power Corporation

[Docket No. ER96–89–000]

Take notice that on October 16, 1995, Florida Power Corporation tendered for filing a service agreement providing for service to Catex Vitol Electric Inc. pursuant to Florida Power's sales tariff. Florida Power requests that the Commission waive its notice of filing requirements and allow the Service Agreement to become effective on October 16, 1995.

Comment date: November 8, 1995, in accordance with Standard Paragraph E at the end of this notice.

10. Kansas City Power & Light Company

[Docket No. ER96–91–000]

Take notice that on October 16, 1995, Kansas City Power & Light Company (KCPL) tendered for filing a Service Agreement dated September 29, 1995, between KCPL and Intercoast Power Marketing Company (Intercoast). KCPL proposes an effective date of September 29, 1995, and requests waiver of the Commission's notice requirement. This Agreement provides for the rates and charges for Non-Firm Transmission Service between KCPL and Intercoast.

In its filing, KCPL states that the rates included in the above-mentioned Service Agreement are KCPL's rates and charges which were conditionally accepted for filing by the Commission in Docket No. ER94–1045–000.

Comment date: November 8, 1995, in accordance with Standard Paragraph E at the end of this notice.

11. Louisville Gas and Electric Company

[Docket No. ER96–92–000]

Take notice that on October 16, 1995, Louisville Gas and Electric Company tendered for filing copies of service agreements between Louisville Gas and Electric Company and Louis Dreyfus Electric Power Inc. and between Louisville Gas and Electric Company and Enron Power Marketing, Inc. under Rate GSS.

Comment date: November 8, 1995, in accordance with Standard Paragraph E at the end of this notice.

12. PacifiCorp

[Docket No. ER96–93–000]

Take notice that on October 16, 1995, PacifiCorp tendered for filing a Transmission Service Agreement with LG&E Power Marketing, Inc. (LG&E) under, PacifiCorp's FERC Electric Tariff, Original Volume No. 5, Service Schedule TS–5.

Copies of this filing were supplied to LG&E, the Washington Utilities and Transportation Commission and the Public Utility Commission of Oregon.

Comment date: November 8, 1995, in accordance with Standard Paragraph E at the end of this notice.

13. Duke Power Company

[Docket No. ER96–110–000]

Take notice that on October 17, 1995, Duke Power Company (Duke) refiled its application to sell up to 2500 MW of capacity and energy from its owned generation assets at negotiated rates, including Rate Schedule MR providing for sales by Duke of both firm and non-firm power. In support of its application, Duke on its own behalf and as agent for its wholly-owned subsidiary, Nantahala Power and Light Company, filed revised transmission tariffs: a network integration service tariff and a point to point transmission tariff, which upon acceptance will supersede the transmission tariffs accepted in Docket No. ER95–760–000. Duke states that these revised tariffs substantially conform to the pro forma transmission tariffs appended to the Commission's Notice of Proposed Rulemaking in Docket No. RM95–8–000.

Comment date: November 3, 1995, in accordance with Standard Paragraph E at the end of this notice.

Standard Paragraph

E. Any person desiring to be heard or to protest said filing should file a motion to intervene or protest with the Federal Energy Regulatory Commission, 825 North Capitol Street, N.E., Washington, D.C. 20426, in accordance with Rules 211 and 214 of the Commission's Rules of Practice and Procedure (18 CFR 385.211 and 18 CFR 385.214). All such motions or protests should be filed on or before the comment date. Protests will be considered by the Commission in determining the appropriate action to be taken, but will not serve to make protestants parties to the proceeding. Any person wishing to become a party must file a motion to intervene. Copies of this filing are on file with the Commission and are available for public inspection.

Lois D. Cashell,

Secretary.

[FR Doc. 95–27198 Filed 11–1–95; 8:45 am]

BILLING CODE 6717–01–P

[Docket No. CP94–161–003]

Avoca Natural Gas Storage; Notice of Intent To Prepare a Supplemental Environmental Assessment for the Avoca Gas Storage Field Project, Request for Comments on Environmental Issues, and Notice of Field Visit

October 27, 1995.

On October 11, 1995, Avoca Natural Gas Storage (Avoca) filed a request with the Federal Energy Regulatory Commission (FERC or Commission) to modify its certificated facilities in Steuben County, New York. The FERC staff will prepare a supplemental environmental assessment (EA) on Avoca's proposed modifications, and will consider all relevant comments received in response to this notice.[1] This supplemental EA will be used by the Commission in its decision-making process to determine whether an environmental impact statement is necessary and whether to approve the proposed project modifications.

Summary of Proposed Project Modifications

Avoca proposes to make the following modifications to the Avoca Gas Storage Field Project:

- Modify the planned fresh water supply to include a direct intake from the Cohocton River of up to 3 million gallons per day between June 1 and October 31.
- Replace the five certificated natural gas-fired compressor engines with electric motors.
- Contruct six gas storage caverns instead of five. Total certificated gas storage volume would remain the same.
- Install a triple header interconnecting pipe rather than the single header currently authorized.

The location of the facilities is shown in appendix 1.[2]

Additional Background Information and Environmental Overview

Freshwater Supply Alternative—Avoca proposes to modify its freshwater supply source to include a direct surface water intake from the Cohocton River as an alternative to groundwater withdrawals between June and October. Surface water withdrawals would cease when discharge at the stream gage, to be installed at the State Route 415 bridge in the town of Avoca, drops to 14 cubic feet per second (cfs). Avoca argues that a direct river withdrawal is environmentally desirable because it would provide additional protection to fish habitat.

Avoca is currently authorized to withdraw up to 3 million gallons per day of groundwater from wells located on the Slayton farm, about 1 mile north-northeast of the gas storage area. In accordance with the FERC certificate, all withdrawals from these wells must cease when the Cohocton River discharge drops to 18.65 cfs, as recorded at the Avoca gage. The Susquehanna River Basin Commission (SRBC) and the New York State Department of Environmental Conservation (NYDEC) imposed higher thresholds for phased reductions of groundwater withdrawal.

Direct withdrawal from the Cohocton River requires construction of an intake structure in the river and approximately 1,800 feet of additional water pipeline.

The NYDEC has already approved the direct river withdrawal concept and a 14 cfs threshold for ceasing surface water withdrawals, but has not yet approved the design of the intake structure or a protocol identifying when and how withdrawals would be made and monitored. The SRBC will not consider the matter before its November 15, 1995 meeting. Avoca states that the intake qualifies for Nationwide Permit authorization from the U.S. Army Corps of Engineers (COE); although that still must be verified through a formal request for determination to be submitted to the COE by Avoca.

Compressor Modifications—Avoca is currently authorized to construct a 25,000-horsepower (hp) compressor station to facilitate natural gas injections into the storage caverns. The station was to consist of five 5,000-hp natural gas-fired gas compressor engines. Avoca now proposes to use electric motors to drive the compressor units. Avoca states that the switch to electric motors would eliminate 180 tons per year of criteria pollutant air emissions that would occur using natural gas-fired engines. The electric transmission line to the site is the same as previously proposed.

Six Cavern Layout—Construction of the five certificated storage caverns was to be phased-in over 3 years: 2 caverns in 1997, 2 caverns in 1998, and 1 cavern in 1999. Each cavern would have a storage capacity of one billion cubic feet (Bcf).

Avoca states that to meet its storage service obligations, the cavern construction phasing must be altered. It now proposes to construct six smaller caverns rather than the authorized five. The total storage volume would not exceed the authorized 5 Bcf. A 6-cavern arrangement would require 12 storage wells instead of 10. The associated structures, two additional 2,500 square foot (ft^2) well pads, two additional mud pits, about 2,000 feet of additional pipeline, and a new 1,000 foot access road, would be constructed. The new cavern wells would be located about 1,200 feet northeast of cavern well No. 10.

Triple Header Interconnection—Avoca proposes to modify the design of the gas metering and receipt station to allow for the potential interconnection with two additional gas pipelines in addition to the authorized interconnection with Tennessee Gas Pipeline Company (Tennessee). The new design would consist of three separate metering skids; one for each of the interconnecting pipelines. All three metering skids would be located on the site originally designated for the Tennessee metering station. However, the footprint of the new interconnection would be 5,000 ft^2 larger than originally designed. Avoca argues that installing the three interconnections at the same time would reduce potential environmental impact associated with redisturbing the same area in the future.

Directional Drilling—On August 11, 1995, the Director of the FERC's Office of Pipeline Regulation authorized Avoca to drill an experimental directional well from a location near its brine disposal

[1] On August 5, 1994, the FERC issued the ''Avoca Gas Storage Field Project EA'' for public comment. On September 20, 1994, the FERC issued an Order approving the project in Docket No. CP94–161–000.

[2] The appendices referenced in this notice are not being printed in the Federal Register. Copies are available from the Commission's Public Reference and Files Maintenance Branch, 888 First Street, N.E., Washington, DC 20426, or call (202) 208–1371. Copies of the appendices were sent to all those receiving this notice in the mail.

well (BDW–1, or Mitchell 1). The intent was to determine if the six authorized brine disposal wells could be constructed using directional drilling technology from a single location near the gas storage area. Drilling continues as of this date. If successful, directional drilling would substantially reduce the environmental impact of the project by eliminating the need to drill six brine disposal wells at the previously approved locations and approximately 5 miles of brine pipeline. The Director of OPR must still give his final approval for constructing directionally drilled brine disposal wells.

The EA Process

The National Environmental Policy Act (NEPA) requires the Commission to take into account the environmental impacts that could result from an action whenever it considers the issuance of a Certificate of Public Convenience and Necessity, or as in this case, an amendment to an existing certificate. NEPA also requires us to discover and address concerns the public may have about proposals. We call this ''scoping''. The main goal of the scoping process is to focus the analysis in the EA on the important environmental issues. By this Notice of Intent, the Commission requests public comments on the scope of the issues it will address in the supplemental EA. All comments received are considered during the preparation of the supplemental EA. State and local government representatives are encouraged to notify their constituents of this proposed action and encourage them to comment on their areas of concern.

The supplemental EA will discuss only those impacts associated with the proposed modifications to the project, and how these impacts differ from those associated with the currently authorized project.

At this time it appears that the most substantive environmental issue is the protection of the Cohocton River fishery resource. Specific issues we will address include:

- Whether the direct surface water withdrawal would be environmentally less disruptive than groundwater use;
- reduced air and noise emissions from conversion to electric motor-driven compressors; and
- other changes and impacts due to construction of:

> 1,800 feet of additional pipeline and a river intake structure;
> 6 caverns instead of 5 caverns; and
> a larger (tripleheader) meter station.

We will also evaluate reasonable alternatives to the proposed project modifications, and make recommendations on how to lessen or avoid impacts on the various resource areas.

Our independent analysis of the issues will be in the supplemental EA. Depending on the comments received during the scoping process, the supplemental EA may be published and mailed to Federal, state, and local agencies, public interest groups, interested individuals, affected landowners, newspapers, libraries, and the Commission's official service list for this proceeding. A comment period will be allotted for review if the supplemental EA is published. We will consider all comments on the supplemental EA before we recommend that the Commission approve or not approve the project modifications.

Site Visit

The FERC staff will conduct a site visit on November 8, 1995, to inspect the locations of the newly proposed facilities. Anyone who desires to accompany the FERC staff on this site visit is welcome to participate. Any interested parties must provide their own transportation. Call Lonnie Lister, Project Manager, at (202) 208–2191 for details on when and where to meet.

Public Participation

You can make a difference by sending a letter addressing your specific comments or concerns about the project. You should focus on the potential environmental effects of the proposal, alternatives to the proposal and measures to avoid or lessen environmental impact. The more specific your comments, the more useful they will be. Please follow the instructions below to ensure that your comments are received and properly recorded:

- Address your letter to: Lois Cashell, Secretary, Federal Energy Regulatory Commission, 888 First Street, N.E., Washington, D.C. 20426;
- Reference Docket No. CP94–161–003;
- Send a *copy* of your letter to: Mr. Lonnie Lister, EA Project Manager, Federal Energy Regulatory Commission, 825 North Capitol St., N.E., Room 7312, Washington, D.C. 20426; and
- Mail your comments so that they will be received in Washington, D.C. on or before November 27, 1995.

If you wish to receive a copy of the supplemental EA, you should request one from Mr. Lister at the above address.

Becoming an Intervenor

In addition to involvement in the EA scoping process, you may want to become an official party to the proceeding or become an ''intervenor''. Among other things, intervenors have the right to receive copies of case-related Commission documents and filings by other intervenors. Likewise, each intervenor must provide copies of its filings to all other parties. If you want to become an intervenor you must file a motion to intervene according to Rule 214 of the Commission's Rules of Practice and Procedure (18 CFR 385.214). You do not need intervenor status to have your scoping comments considered.

Additional information about the proposed project is available from Mr. Lonnie Lister, EA Project Manager, at (202) 208–2191.

Lois D. Cashell,

Secretary.

[FR Doc. 95–27175 Filed 11–1–95; 8:45 am]

BILLING CODE 6717–01–M

[Docket No. CP95–119–003, et al.]

Steuban Gas Storage Company, et al.; Natural Gas Certificate Filings

October 26, 1995.

Take notice that the following filings have been made with the Commission:

1. Steuben Gas Storage Company

[Docket No. CP95–119–003]

Take notice that, on October 24, 1995, in compliance with the Commission's July 28, 1995, Preliminary Determination issued in Docket Nos. CP95–119–000 and CP95–119–001, Steuben Gas Storage Company (Steuben), 500 Renaissance Center, Detroit, Michigan 48243, filed a revised pro forma tariff for the Thomas Corners Storage Field and its responses to questions posed by the Commission in its Preliminary Determination order.

Comment date: November 2, 1995, in accordance with the first paragraph of Standard Paragraph F at the end of this notice.

2. Columbia Gas Transmission Corporation

[Docket No. CP96–25–000]

Take notice that on October 13, 1995, Columbia Gas Transmission Corporation (Applicant), 1700 MacCorkle Avenue, S.E., Charleston, West Virginia 25314–1599, filed under Section 7(c) of the Natural Gas Act for a certificate authorizing the construction and operation of 0.1 mile of 36-inch pipeline loop, on its transmission line, all as more fully described in the petition on file with the Commission and open to public inspection.

The proposed construction is designated as line WB–5, is located in Clay County, West Virginia and will enable Applicant to provide 1,200 Dth/d of firm service to Schuller International, Incorporated under Part 284 of the Commission's Regulations. The project will cost $184,000.

Comment date: November 16, 1995, in accordance with Standard Paragraph F at the end of this notice.

3. Natural Gas Pipeline Company of America

[Docket No. CP96–27–000]

Take notice that on October 18, 1995, Natural Gas Pipeline Company of America (Natural), located at 701 East 22nd Street, Lombard, Illinois 60148, filed in Docket No. CP96–27–000 an application pursuant to Section 7(c) of the Natural Gas Act and Subpart A of Part 157 of the Commission's Regulations. Natural seeks a certificate of public convenience and necessity authorizing the construction and operation of certain facilities which will increase the capacity of its system. Natural proposes to transport up to 345,000 Mcf per day of additional volumes on its Amarillo mainline system eastward from its Compressor Station No. 109 at Harper, Iowa, to the Chicago area.

Natural states that it holds precedent agreements for 550,000 Mcf per day of new firm service away from Harper. It says that it is planning to use roughly 205,000 Mcf per day of existing capacity expected to become available, plus the 345,000 Mcf per day of proposed additional capacity, for these services. Natural further states that its application is largely dependent on the amended application filed by Northern Border Pipeline Company (Northern Border) on October 13, 1995, in Docket No. CP95–194–001. There, Northern Border has, among other things, proposed the expansion of its existing system to Harper.

Natural specifically requests certificate authority to construct and operate the following loop line and compression facilities which are estimated to cost $87,467,000:

(1) Two 14,500 h.p. compressors—by means of retrofitting one existing 12,000 h.p. compressor and one existing 12,500 h.p. compressor (each to 14,500 h.p.) at Natural's Compressor Station No. 199 in Muscatine County, Iowa;

(2) Approximately 37.5 miles of 36-inch pipeline loop in Muscatine County and Rock Island County, Illinois;

(3) One 7,250 h.p. compressor at Natural's existing Compressor Station No. 110 in Henry County, Illinois; and,

(4) Approximately 38.6 miles of 36-inch pipeline loop in Henry and Bureau Counties, Illinois.

Natural filed Precedent Agreements with eleven shippers representing 550,000 Mcf per day of new firm transportation service between Harper and the Chicago area. Natural says that eight of the eleven shippers, representing 505,000 Mcf per day (or 92% of the total), are directly dependent upon related volumes being transported on Northern Border's proposed expansion. Natural says that these eight shippers are affiliated with parent producers or represent a producer pool and, therefore, currently own or control the supplies necessary to fully utilize the new contract volumes. Natural also says that of the three remaining shippers, one is rearranging existing transportation, and two are looking to purchase gas at Harper for transportation into the midwest markets.

Natural plans to charge its effective rates under its Rate Schedule FTS for the new firm transportation services performed using the new capacity created by the new facilities proposed in this docket. Natural is not requesting a determination of the appropriate rate treatment of these facilities in this docket as provided for by the Commission's Policy Statement in Docket No. PL94–4–000. Natural says it is willing to have this issue considered in a future Section 4 rate case. Further, Natural says that its willingness to go forward with its proposed expansion is not, (and the above new shipper commitments are not), dependent on a rate treatment determination being made in this certificate docket.

Natural says that it will be able to complete construction of the proposed facilities within 18 months after receipt of Commission authorization and acceptance by Natural. Natural requests that a Commission order in this docket be issued by the end of 1996—thereby allowing the entirety of 1997 for the facilities to be built. Natural says that the in-service date for the facilities proposed here should coincide with the in-service date for those expansion facilities on Northern Border needed to provide the necessary upstream transportation service for Natural's shippers.

Comment date: November 20, 1995, in accordance with Standard Paragraph F at the end of this notice.

4. Natural Gas Pipeline Company of America

[Docket No. CP96–29–000]

Take notice that on October 19, 1995, Natural Gas Pipeline Company of America (Natural), 701 East 22nd Street, Lombard, Illinois 60148, filed in Docket No. CP96–29–000 an application pursuant to Section 7(b) of the Natural Gas Act for permission and approval to abandon certain certificated facilities, located in Eddy County, New Mexico, by transfer to an affiliate, MidCon Gas Products of New Mexico Corp (MGP of New Mexico), all as more fully set forth in the application on file with the Commission and open to public inspection.

Natural proposes to transfer laterals, meters, taps, a booster station, and appurtenant facilities that were authorized in Docket Nos. CP75–59, CP75–161, CP76–460, and CP77–608 as well as other non-certificated facilities that are located in the same geographic area, its Big Eddy System, to MGP of New Mexico. Natural states that it will sell its entire Big Eddy System for $4,433,328 which represents the net book value on October 1, 1995. Natural mentions that the entire Big Eddy System would be operated as a non-jurisdictional gathering system.

Comment date: November 14, 1995, in accordance with Standard Paragraph F at the end of this notice.

5. Transwestern Pipeline Company

[Docket No. CP96–33–000]

Take notice that on October 24, 1995, Transwestern Pipeline Company (Transwestern), 1400 Smith Street, P.O. Box 1188, Houston, Texas 77251–1188, filed an application pursuant to Section 7(b) of the Natural Gas Act for permission and approval to abandon by sale to NGC Intrastate Pipeline Company (NGC) the S. Gene Hall farm tap located in Gray County, Texas, and the related no-notice transportation service number under Transwestern's Rate Schedule FTS–2, all as more fully set forth in the application which is on file with the Commission and open to public inspection.

Transwestern states that it is currently authorized to provide a firm no-notice transportation service to the S. Gene Hall farm tap under Transwestern's Rate Schedule FTS–2, under a service agreement dated July 27, 1978. It is stated that by letter to Transwestern, S. Gene Hall notified Transwestern that NGC has agreed to continue to provide comparable service to S. Gene Hall and that S. Gene Hall does not oppose transfer of these facilities to NGC.

Comment date: November 14, 1995, in accordance with Standard Paragraph F at the end of this notice.

Standard Paragraph

F. Any person desiring to be heard or make any protest with reference to said

filing should on or before the comment date file with the Federal Energy Regulatory Commission, 825 North Capitol Street, NE., Washington, DC 20426, a motion to intervene or a protest in accordance with the requirements of the Commission's Rules of Practice and Procedure (18 CFR 385.211 and 385.214) and the Regulations under the Natural Gas Act (18 CFR 157.10). All protests filed with the Commission will be considered by it in determining the appropriate action to be taken but will not serve to make the protestants parties to the proceeding. Any person wishing to become a party to a proceeding or to participate as a party in any hearing therein must file a motion to intervene in accordance with the Commission's Rules.

Take further notice that, pursuant to the authority contained in and subject to jurisdiction conferred upon the Federal Energy Regulatory Commission by Sections 7 and 15 of the Natural Gas Act and the Commission's Rules of Practice and Procedure, a hearing will be held without further notice before the Commission or its designee on this filing if no motion to intervene is filed within the time required herein, if the Commission on its own review of the matter finds that a grant of the certificate is required by the public convenience and necessity. If a motion for leave to intervene is timely filed, or if the Commission on its own motion believes that a formal hearing is required, further notice of such hearing will be duly given.

Under the procedure herein provided for, unless otherwise advised, it will be unnecessary for the applicant to appear or be represented at the hearing.

Lois D. Cashell,

Secretary.

[FR Doc. 95–27197 Filed 11–1–95; 8:45 am]

BILLING CODE 6717–01–M

[Docket No. QF95–302–000]

Brooklyn Navy Yard Cogeneration Partners, L.P.; Notice of Amendment to Filing

October 27, 1995.

On October 19, 1995, Brooklyn Navy Yard Cogeneration Partners, L.P. tendered for filing a supplement to its filing in this docket.

The supplement pertains to the ownership structure and technical aspects of the facility. No determination has been made that the submittal constitutes a complete filing.

Any person desiring to be heard or objecting to the granting of qualifying status should file a motion to intervene or protest with the Federal Energy Regulatory Commission, 888 First Street, N.E., Washington, D.C. 20426, in accordance with rules 211 and 214 of the Commission's Rules of Practice and Procedure. All such motions or protest must be filed by November 20, 1995, and must be served on the Applicant. Protests will be considered by the Commission in determining the appropriate action to be taken but will not serve to make protestants parties to the proceeding. Any person wishing to become a party must file a petition to intervene. Copies of this filing are on file with the Commission and are available for public inspection.

Lois D. Cashell,

Secretary.

[FR Doc. 95–27177 Filed 11–1–95; 8:45 am]

BILLING CODE 6717–01–M

[Docket No. ER94–1161–006]

Direct Electric, Inc.; Notice of Filing

October 27, 1995.

Take notice that on October 10, 1995, Direct Electric, Inc. tendered for filing certain information as required by the Commission's letter order dated July 18, 1994. Copies of the informational filing are on file with the Commission and are available for public inspection.

Lois D. Cashell,

Secretary.

[FR Doc. 95–27178 Filed 11–1–95; 8:45 am]

BILLING CODE 6717–01–M

Florida Gas Transmission Company; Notice of Transition Cost Recovery Report

October 27, 1995.

Take notice that on October 25, 1995, Florida Gas Transmission Company (''FGT'') tendered for filing a Transition Cost Recovery Report pursuant to Section 24 of the General Terms and Conditions of its FERC Gas Tariff, Third Revised Volume No. 1.

FGT states that the Transition Cost Recovery Report filed summarizes the activity which has occurred in its TCR Account and Order 636 Account through October, 1995 and includes $338,770 of recoverable 636 transition costs not previously reported. Because the currently effective TCR and 636 reservation charge and TCR usage surcharge rates are at the maximum levels permitted by FGT's tariff, no tariff revisions are required as a result of this filing.

Copies of the report were mailed to all customers serviced under the rate schedules affected by the report and the interested state commissions.

Any person desiring to be heard or to protest said filing should file a motion to intervene or protest with the Federal Energy Regulatory Commission, 888 First Street, N.E., Washington, D.C. 20426 in accordance with Sections 385.214 and 385.211 of the Commission's Rules and Regulations. All such motions or protests should be filed on or before November 3, 1995. Protests will be considered by the Commission in determining the appropriate action to be taken, but will not serve to make protestants parties to the proceeding. Any person wishing to become a party must file a motion to intervene.

Copies of this filing are on file with the Commission and are available for public inspection in the Public Reference Room.

Lois D. Cashell,

Secretary.

[FR Doc. 95–27179 Filed 11–01–95; 8:45 am]

BILLING CODE 6717–01–M

[Docket No. ER95–1421–001]

JPower Inc.; Notice of Filing

October 27, 1995.

Take notice that on October 19, 1995, JPower Inc. filed certain information as required by the Commission's August 25, 1995, order in Docket No. ER95–1421–000. Copies of JPower Inc.'s informational filing are on file with the Commission and are available for public inspection.

Lois D. Cashell,

Secretary.

[FR Doc. 95–27180 Filed 11–1–95; 8:45 am]

BILLING CODE 6717–01–M

[Docket No. ER96–104–000]

Montaup Electric Company; Notice of Filing

October 27, 1995.

Take notice that on October 17, 1995, Montaup Electric Company (Montaup), tendered for filing 1) executed unit sales service agreements under Montaup's FERC Electric Tariff, Original Volume No. III, and 2) executed service agreements for the sale of system capacity and associated energy under Montaup's FERC Electric Tariff, Original Volume No. IV with the following companies (Buyers):

1. PECO Energy Company (PECO);
2. Phibro, Inc. (Phibro);
3. Electric Clearinghouse, Inc. (ECI);
4. Coastal Electric Services Company (CESC);

5. North American Energy Conservation, Inc. (NAEC);
6. KCS Power Marketing, Inc. (KCS); and
7. United Illuminating Company (UI).

The latter service agreements allow Buyers, through certificates of concurrence, to provide capacity from one of Buyers' units, which enables Montaup to make a system sale while maintaining its minimum monthly system capability required under the present NEPOOL Agreement.

The transactions under the service agreements are purely voluntary and will be entered into only if mutually beneficial and agreeable. Montaup requests a waiver of the sixty-day notice requirement so that the service agreements may become effective September 20, 1995 for the PECO, Phibro, ECI, CESC, and UI agreements and October 3, 1995 for the NAEC and KCS agreements.

Any person desiring to be heard or to protest said filing should file a motion to intervene or protest with the Federal Energy Regulatory Commission, 888 First Street, N.E., Washington, D.C. 20426, in accordance with Rules 211 or 214 of the Commission's Rules of Practice and Procedure (18 CFR 385.211, 385.214). All such motions or protests should be filed on or before November 9, 1995. Protests filed with the Commission will be considered by it in determining the appropriate action to be taken but will not serve to make the protestants parties to the proceeding. Any person wishing to become a party must file a motion to intervene. Copies of this filing are on file with the Commission and are available for public inspection.

Lois D. Cashell,

Secretary.

[FR Doc. 95–27181 Filed 11–1–95; 8:45 am]

BILLING CODE 6717–01–M

[Docket No. RP96–16–000]

Natural Gas Pipeline Company of America; Notice of Proposed Changes in FERC Gas Tariff

October 27, 1995.

Take notice that on October 24, 1995, Natural Gas Pipeline Company of America (Natural) tendered for filing as part of its FERC Gas Tariff, Sixth Revised Volume No. 1, revised tariff sheets to be effective November 1, 1995.

Natural states that the purpose of the filing is to establish a mechanism for the recovery of costs assessed to Natural by Great Lakes Gas Transmission Limited Partnership (Great Lakes) as a result of the Commission's ''Order on Remand'' issued July 26, 1995, in Docket No. RP91–143. That order allowed Great Lakes to implement rolled-in pricing for certain expansion facilities, reversing a prior Commission decision. The proposed mechanism would become new Section 47 of the General Terms and Conditions of Natural's FERC Gas Tariff, Sixth Revised Volume No. 1.

Natural has requested waiver of the thirty (30) day filing requirement, to allow the revised tariff sheets to become effective as of November 1, 1995, given the effective date (October 1) of increased charges by Great Lakes to Natural.

Natural states that a copy of the filing is being mailed to Natural's jurisdictional customers and interested state regulatory agencies.

Any person desiring to be heard or to protest said filing should file a motion to intervene or protest with the Federal Energy Regulatory Commission, 888 First Street, NE., Washington, DC 20426, in accordance with 18 CFR 385.214 and 385.211 of the Commission's Rules and Regulations. All such motions or protests must be filed on or before November 3, 1995. Protests will be considered by the Commission in determining the appropriate action to be taken, but will not serve to make protestants parties to the proceeding. Any person wishing to become a party must file a motion to intervene. Copies of this filing are on file with the Commission and are available for public inspection in the Public Reference Room.

Lois D. Cashell,

Secretary.

[FR Doc. 95–27182 Filed 11–1–95; 8:45 am]

BILLING CODE 6717–01–M

[Project No. 11447–001 Oregon]

North Unit Irrigation District; Notice of Surrender of Preliminary Permit

October 27, 1995.

Take notice that North Unit Irrigation district, Permittee for the Wickiup Project No. 11447, has requested that its preliminary permit be terminated. The preliminary permit for Project No. 11447 was issued March 14, 1994, and would have expired February 28, 1997. The project would have been located on the Deschutes River, in Deschutes County, Oregon.

The Permittee filed the request on October 16, 1995, and the preliminary permit for Project No. 11447 shall remain in effect through the thirtieth day after issuance of this notice unless that day is a Saturday, Sunday or holiday as described in 18 CFR 385.2007, in which case the permit shall remain in effect through the first business day following that day. New applications involving this project site, to the extent provided for under 18 CFR Part 4, may be filed on the next business day.

Lois D. Cashell,

Secretary.

[FR Doc. 95–27176 Filed 11–1–95; 8:45 am]

BILLING CODE 6717–01–M

[Docket No. CP96–35–000]

Steuben Gas Storage Company; Notice of Application

October 27, 1995.

Take notice that on October 24, 1995, Steuben Gas Storage Company (Steuben), 500 Renaissance Center, Detroit, Michigan 48243, filed an application for a blanket certificate of public convenience and necessity authorizing the storage of natural gas, at Steuben's Adrian storage field, pursuant to 18 CFR 284.221, of the Federal Energy Regulatory Commission's Regulations, all as more fully set forth in the application which is on file with the Commission and open to public inspection.

Steuben states that the purpose of this filing is to comply with Ordering Paragraph (D) of the Commission's July 28, 1995, ''Preliminary Determination on Non-Environmental Issues'', at Docket Nos. CP95–119–000 and CP95–119–001, requiring Steuben to apply for a blanket certificate under Part 284 and file an open-access tariff for its Adrian storage field storage services.

Any person desiring to be heard or to make any protest with reference to said application should on or before November 3, 1995, file with the Federal Energy Regulatory Commission, Washington, DC 20426, a motion to intervene or a protest in accordance with the requirements of the Commission's Rules of Practice and Procedure (18 CFR 385.214 or 385.211) and the Regulations under the Natural Gas Act (18 CFR 157.10). All protests filed with the Commission will be considered by it in determining the appropriate action to be taken but will not serve to make the protestants parties to the proceeding. Any person wishing to become a party to a proceeding or to participate as a party in any hearing therein must file a motion to intervene in accordance with the Commission's Rules.

Take further notice that, pursuant to the authority contained in and subject to jurisdiction conferred upon the Federal Energy Regulatory Commission by

Sections 7 and 15 of the Natural Gas Act and the Commission's Rules of Practice and Procedure, a hearing will be held without further notice before the Commission or its designee on this application if no motion to intervene is filed within the time required herein, if the Commission on its own review of the matter finds that a grant of the certificate is required by the public convenience and necessity. If a motion for leave to intervene is timely filed, or if the Commission on its own motion believes that a formal hearing is required, further notice of such hearing will be duly given.

Under the procedure herein provided for, unless otherwise advised, it will be unnecessary for Steuben to appear or be represented at the hearing.

Lois D. Cashell,

Secretary.

[FR Doc. 95–27183 Filed 11–1–95; 8:45 am]

BILLING CODE 6717–01–M

[Docket No. RP95–206–003]

Tennessee Gas Pipeline Company; Notice of Proposed Changes in FERC Gas Tariff

October 27, 1995.

Take notice that on October 24, 1995, Tennessee Gas Pipeline Company (Tennessee), filed to move the following revised tariff sheet into effect as of November 13, 1995:

Substitute Second Revised Sheet No. 316

Tennessee hereby re-submits Substitute Second Revised Sheet No. 316. Tennessee states that this sheet is being re-submitted to correct a pagination error from the October 13, 1995 filing.

Any person desiring to protest with reference to said filing should file a protest with the Federal Energy Regulatory Commission, 888 First Street, N.E., Washington, D.C. 20426, in accordance with Section 211 of the commission's Rules of Practice and Procedure, 18 CFR 385.211. All such protests should be filed on or before November 3, 1995. Protests will be considered by the Commission in determining the appropriate action to be taken, but will not serve to make protestants parties to this proceeding. Copies of this filing are on file and available for public inspection.

Lois D. Cashell,

Secretary.

[FR Doc. 95–27184 Filed 11–1–95; 8:45 am]

BILLING CODE 6717–01–M

Office of Fossil Energy

[FE Docket No. 95–71–NG]

Amoco Energy Trading Corp., Order Granting Blanket Authorization To Export Natural Gas to Mexico

AGENCY: Office of Fossil Energy, DOE.

ACTION: Notice of order.

SUMMARY: The Office of Fossil Energy of the Department of Energy gives notice that it has issued an order granting Amoco Energy Trading Corporation (Amoco) authorization to export a total of up to 300 Bcf of natural gas to Mexico. This export authorization shall extend for a period of two years beginning on the date of the first export delivery after November 8, 1995.

Amoco's order is available for inspection and copying in the Office of Fuels Programs Docket Room, 3F–056, Forrestal Building, 1000 Independence Avenue, S.W., Washington, D.C. 20585, (202) 586–9478. The docket room is open between the hours of 8:00 a.m. and 4:30 p.m., Monday through Friday, except Federal holidays.

Issued in Washington, D.C., October 17, 1995.

Clifford P. Tomaszewski,

Director, Office of Natural Gas, Office of Fuels Programs, Office of Fossil Energy.

[FR Doc. 95–27232 Filed 11–1–95; 8:45 am]

BILLING CODE 6450–01–P

[FE Docket No. 95–79–NG]

Washington Natural Gas Company; Order Granting Blanket Authorization To Import Natural Gas From Canada

AGENCY: Office of Fossil Energy, DOE.

ACTION: Notice of order.

SUMMARY: The Office of Fossil Energy of the Department of Energy gives notice that it has issued an order granting Washington Natural Gas Company blanket authorization to import up to 50 Bcf of natural gas from Canada. The import authorization is for a period of two years beginning on the date of the initial delivery after November 30, 1995.

This order is available for inspection and copying in the Office of Fuels Programs Docket Room, 3F–056, Forrestal Building, 1000 Independence Avenue, S.W., Washington, D.C. 20585, (202) 586–9478. The docket room is open between the hours of 8:00 a.m. and 4:30 p.m., Monday through Friday, except Federal holidays.

Issued in Washington, D.C. on October 13, 1995.

Clifford P. Tomaszewski,

Director, Office of Natural Gas, Office of Fuels Programs, Office of Fossil Energy.

[FR Doc. 95–27233 Filed 11–1–95; 8:45 am]

BILLING CODE 6450–01–P

FEDERAL RESERVE SYSTEM

Agency Forms Under Review

AGENCY: Board of Governors of the Federal Reserve System.

ACTION: Notice.

BACKGROUND: On June 15, 1984, the Office of Management and Budget (OMB) delegated to the Board of Governors of the Federal Reserve System (Board) its approval authority under the Paperwork Reduction Act of 1995, as per 5 CFR 1320.16, to approve of and assign OMB control numbers to collection of information requests and requirements conducted or sponsored by the Board under conditions set forth in 5 CFR 1320 Appendix A.1. The Federal Reserve may not conduct or sponsor, and the respondent is not required to respond to, an information collection that has been extended, revised, or implemented on or after October 1, 1995, unless it displays a currently valid OMB control number. Board-approved collections of information will be incorporated into the official OMB inventory of currently approved collections of information. A copy of the OMB 83-I and supporting statement and the approved collection of information instrument(s) will be placed into OMB's public docket files. The following information collections, which are being handled under this delegated authority, have received initial Board approval and are hereby published for comment. At the end of the comment period, the proposed information collection, along with an analysis of comments and recommendations received, will be submitted to the Board for final approval under OMB delegated authority. Comments are invited on:

(a) whether the proposed collection of information is necessary for the proper performance of the Federal Reserve's functions; including whether the information has practical utility;

(b) the accuracy of the Federal Reserve's estimate of the burden of the proposed information collection, including the validity of the methodology and assumptions used;

(c) ways to enhance the quality, utility, and clarity of the information to be collected; and

(d) ways to minimize the burden of information collection on respondents, including through the use of automated collection techniques or other forms of information technology.

DATES: Comments must be submitted on or before January 2, 1996.

ADDRESSES: Comments, which should refer to the OMB control number (or Agency form number in the case of a new information collection that has not yet been assigned an OMB number), should be addressed to Mr. William W. Wiles, Secretary, Board of Governors of the Federal Reserve System, 20th and C Streets, N.W., Washington, DC 20551, or delivered to the Board's mail room between 8:45 a.m. and 5:15 p.m., and to the security control room outside of those hours. Both the mail room and the security control room are accessible from the courtyard entrance on 20th Street between Constitution Avenue and C Street, N.W. Comments received may be inspected in room M-P-500 between 9:00 a.m. and 5:00 p.m., except as provided in section 261.8 of the Board's Rules Regarding Availability of Information, 12 CFR 261.8(a).

A copy of the comments may also be submitted to the OMB desk officer for the Board: Milo Sunderhauf, Office of Information and Regulatory Affairs, Office of Management and Budget, New Executive Office Building, Room 3208, Washington, DC 20503.

FOR FURTHER INFORMATION CONTACT: A copy of the Paperwork Reduction Act Submission (OMB 83-I), supporting statement, and other documents that will be placed into OMB's public docket files once approved may be requested from the agency clearance officer, whose name appears below.Mary M. McLaughlin, Federal Reserve Board Clearance Officer (202-452-3829), Division of Research and Statistics, Board of Governors of the Federal Reserve System, Washington, DC 20551. For the hearing impaired *only*, Telecommunications Device for the Deaf (TDD) Dorothea Thompson (202-452-3544), Board of Governors of the Federal Reserve System, Washington, DC 20551.

Proposal to approve under OMB delegated authority the extension, without revision, of the following reports:

1. Report title: Disclosure Requirements in Connection with Regulation CC to implement the Expedited Funds Availability Act
Agency form number: None
OMB control number: 7100-0235
Frequency: Event-generated
Reporters: State member banks
Annual reporting hours: 171,900
Estimated average hours per response: Notice of exceptions, Case by case hold notice, or Notice to potential customers upon request: 3 minutes; Notice posted where consumers make deposits: 15 minutes; Notice of changes in policy: 20 hours; and Annual notice of new ATMs: 5 hours.
Number of respondents: 975
Small businesses are affected.

General description of report: This information collection is mandatory (12 U.S.C. § 4008). No issue of confidentiality under the Freedom of Information Act arises.

Abstract: The third party disclosure requirements are intended to alert consumers about their financial institutions' check-hold policies and to help prevent unintentional (and costly) overdrafts. Most disclosures must be made within one banking day of the triggering event. Disclosures resulting from a policy change must be made thirty days before action is taken, or within thirty days if the action makes funds available more quickly. Model forms, clauses, and notices are appended to the regulation to provide guidance.

The Board's Regulation CC applies to all depository institutions, not just state member banks. However, under Paperwork Reduction Act regulations, the Federal Reserve accounts for the burden of the paperwork associated with the regulation only for state member banks. Other agencies account for the Regulation CC paperwork burden on their respective constituencies.

2. Report title: Recordkeeping and Disclosure Requirements in Connection with Regulation DD (Truth in Savings)
Agency form number: None
OMB control number: 7100-0271
Frequency: Event-generated
Reporters: State member banks
Annual reporting hours: 1,447,225
Estimated average hours per response: Complete account disclosures: 5 minutes; Subsequent change in terms notice, Subsequent prematurity notice, or Periodic statement: 1 minute; and Advertising: 1 hour.
Number of respondents: 975
Small businesses are affected.

General description of report: This information collection is mandatory (12 U.S.C. § 4308). No issue of confidentiality under the Freedom of Information Act arises.

Abstract: Regulation DD implements the Truth in Savings Act (12 U.S.C. § 4301 *et seq*). The act and regulation require depository institutions to disclose information such as fees and rates that apply to deposit accounts. Depository institutions that provide periodic statements are required to include information about fees imposed, interest earned, and the annual percentage yield (APY) during those statement periods. The substantive requirements of the act and regulation mandate the methods by which institutions determine the balance on which interest is calculated. Rules dealing with advertisements for deposit accounts are also included in the regulation. Model clauses and sample forms are appended to the regulation to provide guidance. Depository institutions are required to retain records as evidence of compliance.

The Board's Regulation DD applies to all depository institutions, not just state member banks. However, under Paperwork Reduction Act regulations, the Federal Reserve accounts for the burden of the paperwork associated with the regulation only for state member banks. Other agencies account for the Regulation DD paperwork burden on their respective constituencies.

This extension of authority under the Paperwork Reduction Act has no bearing on the pending rulemaking related to the method of APY calculation.

3. Report title: Recordkeeping Requirements in Associated with the Real Estate Lending Standards Regulation (12 CFR 208.51)

Agency form number: None

OMB control number: 7100-0261

Frequency: Annual

Reporters: State member banks

Annual reporting hours: 39,000

Estimated average hours per response: 40

Number of respondents: 975

Small businesses are affected.

General description of report: This information collection is mandatory (12 U.S.C. § 1828(o)). No issue of confidentiality under the Freedom of Information Act normally arises.

Abstract: This information collection is a recordkeeping requirement contained in the Board's Regulation H (12 CFR 208.51) that implements section 304 of the Federal Deposit Insurance Corporation Improvement Act of 1991 (FDICIA). The requirement is to adopt and maintain a written real estate lending policy. There is no formal reporting form and the information is not submitted to the Federal Reserve.

Board of Governors of the Federal Reserve System,October 27, 1995

William W. Wiles,

Secretary of the Board.

[FR Doc. 95–27194 Filed 11–1–95; 8:45 am]

BILLING CODE 6210–01–F

Chemical Banking Corporation; Formation of, Acquisition by, or Merger of Bank Holding Companies; and Acquisition of Nonbanking Company; Correction

This notice corrects a notice (FR Doc. 95-26121) published on pages 54373 and 54374 of the issue for Monday, October 23, 1995.

Under the Federal Reserve Bank of New York heading, the entry for Chemical Banking Corporation, is revised to read as follows:

Comments on this application must be received by November 24, 1995.

Board of Governors of the Federal Reserve System, October 30, 1995.

Jennifer J. Johnson,

Deputy Secretary of the Board.

[FR Doc. 95-27287 Filed 11-1-95; 8:45 am]

BILLING CODE 6210-01-F

Notice of Public Meeting

AGENCY: Board of Governors of the Federal Reserve System.

ACTION: Notice of public meeting.

PLACE: Federal Reserve Bank of New York, 33 Liberty Street, New York City, New York, 10045.

SUMMARY: The Federal Reserve Board is announcing a public meeting in connection with the application of Chemical Banking Corporation, New York City, New York, to acquire The Chase Manhattan Corporation, New York City, New York, pursuant to sections 3 and 4 of the Bank Holding Company Act of 1956.

FOR FURTHER INFORMATION CONTACT: Thomas M. Corsi, Senior Attorney (202/452–3275), or Christopher Greene, Attorney (202/452–2263), Legal Division, or Charles Fleet, Review Examiner, Division of Consumer and Community Affairs (202/452–2776), Board of Governors of the Federal Reserve System, Washington, D.C. 20551. For users of Telecommunications Device for the Deaf (TDD) only, please contact Dorothea Thompson (202/452–3344), Board of Governors of the Federal Reserve System, 20th and C Streets, N.W., Washington, D.C. 20551.

SUPPLEMENTARY INFORMATION:

Background and Public Meeting Notice

On October 3, 1995, Chemical Banking Corporation, New York City, New York (Chemical), applied to the Federal Reserve System for approval under sections 3 and 4 of the Bank Holding Company Act (12 U.S.C. 1842, 1843) (BHC Act) to acquire The Chase Manhattan Corporation, New York, New York (Chase), and thereby to acquire the banking and nonbanking subsidiaries of Chase. Chemical also has applied to the New York State Banking Department under relevant provisions of New York banking law. Under authority delegated by the Board of Governors of the Federal Reserve System (Board) in § 265.6(a)(2) of the Board's Rules, the General Counsel of the Board hereby orders that a public meeting on the applications be held in New York City, New York, on Thursday, November 16, 1995, to collect information on the convenience and needs of the communities to be served by this proposal, including the records of performance of these institutions under the Community Reinvestment Act (12 U.S.C. 2901 *et seq.*) (CRA) and the community reinvestment provisions of New York Banking Law (N.Y. Banking Law section 28-b).

The public meeting will be held jointly with the New York State Banking Department at the Federal Reserve Bank of New York, 33 Liberty Street, New York City, New York, 10045. The meeting will begin at 9:00 a.m. E.S.T.

Purpose and Procedures

The purpose of the public meeting is to receive information regarding the convenience and needs of the communities to be served by this proposal, including the records of performance of Chemical and Chase under the CRA and the community reinvestment provisions of New York Banking Law. The CRA requires the appropriate federal financial supervisory agency to ''assess [an] institution's record of meeting the credit needs of its entire community, including low- and moderate-income neighborhoods, consistent with the safe and sound operation of [the] institution.'' 12 U.S.C. 2903. The Board, as a federal financial supervisory agency, is required to take this record into account in its evaluation of an application under section 3 of the BHC Act.

The public meeting is convened under the Board's policy statement regarding informal meetings in § 262.25(d) of the Board's Rules (12 CFR 262.25(d)). This policy statement provides that the purpose of a public meeting is to elicit information, to clarify factual issues related to an application, and to provide an opportunity for interested individuals to provide testimony. In contrast to a formal administrative hearing, the rules for taking evidence in an administrative proceeding will not apply to this public meeting. Testimony at the public meeting will be presented to a panel consisting of Presiding Officers, Neil D. Levin, Superintendent of Banks of the State of New York, or his designee, and Griffith L. Garwood, Director of the Board's Division of Consumer and Community Affairs, and other panel members appointed by the Presiding Officers. These panel members may question witnesses, but no cross-examination of witnesses by others will be permitted.

In conducting this public meeting, the Presiding Officers will have the authority and discretion to ensure that the meeting proceeds in a fair and orderly manner. The public meeting will be transcribed and information regarding procedures for obtaining a copy of the transcript will be announced at the public meeting.

All persons wishing to testify at the public meeting should submit a written request to Darrie Williams, Secretary of the New York State Banking Board, Two Rector Street, New York City, New York 10006 (facsimile: 212/618–6912), with a copy to William W. Wiles, Secretary of the Board, Board of Governors of the Federal Reserve System, 20th Street and Constitution Avenue, N.W., Washington, D.C., 20551 (facsimile: (202/452–3819), not later than November 10, 1995, providing the following information:

(i) A brief statement of the nature of the expected testimony and the estimated time required for the presentation;

(ii) Address and telephone number (and facsimile number, if available); and

(iii) Identification of any special needs, such as persons desiring translation services, persons with a physical disability who may need assistance, or persons using visual aids for their presentation. To the extent available, translators will be provided to persons wishing to present their views in a language other than English if they include this information in their request to testify.

Persons interested only in attending the meeting do not need to submit a written request to attend.

On the basis of the requests received, the Presiding Officers will prepare a schedule for persons wishing to testify. Persons not listed on the schedule may be permitted to speak at the public meeting at the discretion of the Presiding Officers if time permits at the conclusion of the schedule of witnesses. Copies of testimony may, but need not, be filed with the Presiding Officers before a person's presentation.

By order of the General Counsel of the Board of Governors, acting pursuant to

authority delegated by the Board of Governors, effective October 30, 1995.

Jennifer J. Johnson,

Deputy Secretary of the Board.

[FR Doc. 95–27288 Filed 11–1–95; 8:45 am]

BILLING CODE 6210–01–P

Alan J. Johnson, et al.; Change in Bank Control Notices; Acquisitions of Shares of Banks or Bank Holding Companies

The notificants listed below have applied under the Change in Bank Control Act (12 U.S.C. 1817(j)) and § 225.41 of the Board's Regulation Y (12 CFR 225.41) to acquire a bank or bank holding company. The factors that are considered in acting on the notices are set forth in paragraph 7 of the Act (12 U.S.C. 1817(j)(7)).

The notices are available for immediate inspection at the Federal Reserve Bank indicated. Once the notices have been accepted for processing, they will also be available for inspection at the offices of the Board of Governors. Interested persons may express their views in writing to the Reserve Bank indicated for that notice or to the offices of the Board of Governors. Comments must be received not later than November 16, 1995.

A. Federal Reserve Bank of Chicago (James A. Bluemle, Vice President) 230 South LaSalle Street, Chicago, Illinois 60690:

1. Alan J. Johnson, Elkader, Iowa, and Robert A. Schultz, Luana, Iowa; each to acquire an additional 2.28 percent, for a total of 25.81 percent, of the voting shares of WFC, Inc., Waukon, Iowa, and thereby indirectly acquire Waukon State Bank, Waukon, Iowa.

B. Federal Reserve Bank of Kansas City (John E. Yorke, Senior Vice President) 925 Grand Avenue, Kansas City, Missouri 64198:

1. Harold W. Hall, Jr., and Juanita A. Hall, both of Dighton, Kansas; each to acquire an additional 6.93 percent, for a total of 27.16 percent, of the voting shares of Dighton National Bancshares, Inc., Dighton, Kansas, and thereby indirectly acquire The First National Bank of Dighton, Dighton, Kansas.

Board of Governors of the Federal Reserve System, October 27, 1995.

Jennifer J. Johnson,

Deputy Secretary of the Board.

[FR Doc. 95–27207 Filed 11–1–95; 8:45 am]

BILLING CODE 6210–01–F

Montgomery Bancorporation, Inc., et al.; Notice of Applications to Engage de novo in Permissible Nonbanking Activities

The companies listed in this notice have filed an application under § 225.23(a)(1) of the Board's Regulation Y (12 CFR 225.23(a)(1)) for the Board's approval under section 4(c)(8) of the Bank Holding Company Act (12 U.S.C. 1843(c)(8)) and § 225.21(a) of Regulation Y (12 CFR 225.21(a)) to commence or to engage *de novo*, either directly or through a subsidiary, in a nonbanking activity that is listed in § 225.25 of Regulation Y as closely related to banking and permissible for bank holding companies. Unless otherwise noted, such activities will be conducted throughout the United States.

Each application is available for immediate inspection at the Federal Reserve Bank indicated. Once the application has been accepted for processing, it will also be available for inspection at the offices of the Board of Governors. Interested persons may express their views in writing on the question whether consummation of the proposal can ''reasonably be expected to produce benefits to the public, such as greater convenience, increased competition, or gains in efficiency, that outweigh possible adverse effects, such as undue concentration of resources, decreased or unfair competition, conflicts of interests, or unsound banking practices.'' Any request for a hearing on this question must be accompanied by a statement of the reasons a written presentation would not suffice in lieu of a hearing, identifying specifically any questions of fact that are in dispute, summarizing the evidence that would be presented at a hearing, and indicating how the party commenting would be aggrieved by approval of the proposal.

Unless otherwise noted, comments regarding the applications must be received at the Reserve Bank indicated or the offices of the Board of Governors not later than November 16, 1995.

A. Federal Reserve Bank of Cleveland (John J. Wixted, Jr., Vice President) 1455 East Sixth Street, Cleveland, Ohio 44101:

1. Montgomery Bancorporation, Inc., Mount Sterling, Kentucky; to engage *de novo* through its subsidiary, Traditional Bank, FSB, Lexington, Kentucky, in permissible savings association activities, pursuant to § 225.25(b)(9) of the Board's Regulation Y.

B. Federal Reserve Bank of Richmond (Lloyd W. Bostian, Jr., Senior Vice President) 701 East Byrd Street, Richmond, Virginia 23261:

1. Crestar Financial Corporation, Richmond, Virginia; to engage *de novo* through its subsidiary, Crestar Securities Corporation, Richmond, Virginia, in making, acquiring, or servicing loans or other extensions of credit, pursuant to § 225.25(b)(1) of the Board's Regulation Y; providing portfolio investment advice, pursuant to § 225.25(b)(4)(iii) of the Board's Regulation Y; and leasing personal or real property or acting as agent, broker, or advisor in leasing such property, pursuant to § 225.25(b)(5) of the Board's Regulation Y.

C. Federal Reserve Bank of Atlanta (Zane R. Kelley, Vice President) 104 Marietta Street, N.W., Atlanta, Georgia 30303:

1. Whitney Holding Corporation, New Orleans, Louisiana; to engage *de novo* through its subsidiary, WCDC, Inc., New Orleans, Louisiana, in making equity investments, loans, and project packaging assistance for a variety of housing and community development projects and to promote economic growth and revitalization of distressed communities within its trade area, pursuant § 225.25(b)(6) of the Board's Regulation Y.

Board of Governors of the Federal Reserve System, October 27, 1995.

Jennifer J. Johnson,

Deputy Secretary of the Board.

[FR Doc. 95–27208 Filed 11–1–95; 8:45 am]

BILLING CODE 6210–01–F

Susquehanna Bancshares, Inc., et al.; Acquisitions of Companies Engaged in Permissible Nonbanking Activities

The organizations listed in this notice have applied under § 225.23(a)(2) or (f) of the Board's Regulation Y (12 CFR 225.23(a)(2) or (f)) for the Board's approval under section 4(c)(8) of the Bank Holding Company Act (12 U.S.C. 1843(c)(8)) and § 225.21(a) of Regulation Y (12 CFR 225.21(a)) to acquire or control voting securities or assets of a company engaged in a nonbanking activity that is listed in § 225.25 of Regulation Y as closely related to banking and permissible for bank holding companies. Unless otherwise noted, such activities will be conducted throughout the United States.

Each application is available for immediate inspection at the Federal Reserve Bank indicated. Once the application has been accepted for processing, it will also be available for inspection at the offices of the Board of Governors. Interested persons may express their views in writing on the question whether consummation of the proposal can ''reasonably be expected to produce benefits to the public, such as

greater convenience, increased competition, or gains in efficiency, that outweigh possible adverse effects, such as undue concentration of resources, decreased or unfair competition, conflicts of interests, or unsound banking practices.'' Any request for a hearing on this question must be accompanied by a statement of the reasons a written presentation would not suffice in lieu of a hearing, identifying specifically any questions of fact that are in dispute, summarizing the evidence that would be presented at a hearing, and indicating how the party commenting would be aggrieved by approval of the proposal.

Unless otherwise noted, comments regarding each of these applications must be received at the Reserve Bank indicated for the application or the offices of the Board of Governors not later than November 16, 1995.

A. Federal Reserve Bank of Philadelphia (Michael E. Collins, Senior Vice President) 100 North 6th Street, Philadelphia, Pennsylvania 19105:

1. Susquehanna Bancshares, Inc., Lititz, Pennsylvania; to acquire Fairfax Financial Corporation, Baltimore, Maryland, and thereby indirectly acquire Fairfax Savings, F.S.B., Baltimore, Maryland, and thereby engage in owning and operating a savings association, pursuant to § 225.25(b)(9) of the Board's Regulation Y; Advantage Investments, Inc., Baltimore, Maryland, and thereby engage in acting as agent in the sale of retail securities brokerage activities, pursuant to § 225.25(b)(15)(i) and (b)(15)(ii) of the Board's Regulation Y; Fairfax Mortgage Corporation, Baltimore, Maryland, and thereby engage in making loans secured by mortgages, pursuant to § 225.25(b)(1) of the Board's Regulation Y.

B. Federal Reserve Bank of Cleveland (John J. Wixted, Jr., Vice President) 1455 East Sixth Street, Cleveland, Ohio 44101:

1. Fifth Third Bancorp, Cincinnati, Ohio; to acquire Kentucky Enterprise Bancorp, Inc., and Kentucky Enterprise Bank, FSB, both of Newport, Kentucky, and thereby engage in permissible savings association activities, pursuant to § 225.25(b)(9) of the Board's Regulation Y.

C. Federal Reserve Bank of Chicago (James A. Bluemle, Vice President) 230 South LaSalle Street, Chicago, Illinois 60690:

1. Firstar Corporation, Milwaukee, Wisconsin, and Firstar Corporation of Iowa, Des Moines, Iowa; to acquire Harvest Financial Corp., Dubuque, Iowa, and Harvest Savings Bank, F.S.B., Dubuque, Iowa, and thereby engage in owning, controlling and operating a savings association, pursuant to § 225.25(b)(9) of the Board's Regulation Y.

Board of Governors of the Federal Reserve System, October 27, 1995.

Jennifer J. Johnson,

Deputy Secretary of the Board.

[FR Doc. 95–27209 Filed 11–1–95; 8:45 am]

BILLING CODE 6210–01–F

United Community Bancorp, Inc., et al.; Formations of; Acquisitions by; and Mergers of Bank Holding Companies

The companies listed in this notice have applied for the Board's approval under section 3 of the Bank Holding Company Act (12 U.S.C. 1842) and § 225.14 of the Board's Regulation Y (12 CFR 225.14) to become a bank holding company or to acquire a bank or bank holding company. The factors that are considered in acting on the applications are set forth in section 3(c) of the Act (12 U.S.C. 1842(c)).

Each application is available for immediate inspection at the Federal Reserve Bank indicated. Once the application has been accepted for processing, it will also be available for inspection at the offices of the Board of Governors. Interested persons may express their views in writing to the Reserve Bank or to the offices of the Board of Governors. Any comment on an application that requests a hearing must include a statement of why a written presentation would not suffice in lieu of a hearing, identifying specifically any questions of fact that are in dispute and summarizing the evidence that would be presented at a hearing.

Unless otherwise noted, comments regarding each of these applications must be received not later than November 27, 1995.

A. Federal Reserve Bank of Chicago (James A. Bluemle, Vice President) 230 South LaSalle Street, Chicago, Illinois 60690:

1. United Community Bancorp, Inc., Chatham, Illinois; to acquire 100 percent of the voting shares of State Bank of Auburn, Auburn, Illinois.

B. Federal Reserve Bank of Minneapolis (James M. Lyon, Vice President) 250 Marquette Avenue, Minneapolis, Minnesota 55480:

1. Farmers & Merchants Financial, Services, Inc., St. Paul, Minnesota; to acquire at least 80.2 percent of the voting shares of Farmers State Bank of Huntley, Inc., Huntley, Minnesota.

C. Federal Reserve Bank of Kansas City (John E. Yorke, Senior Vice President) 925 Grand Avenue, Kansas City, Missouri 64198:

1. Mackey BanCo, Inc., Ansley, Nebraska; to become a bank holding company by acquiring 80 percent of the voting shares of Security State Bank, Ansley, Nebraska.

Board of Governors of the Federal Reserve System, October 27, 1995.

Jennifer J. Johnson,

Deputy Secretary of the Board.

[FR Doc. 95–27210 Filed 11–1–95; 8:45 am]

BILLING CODE 6210–01–F

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Administration for Children and Families; Appeal

AGENCY: Administration for Children and Families (ACF), HHS.

ACTION: Notice of appeal.

SUMMARY: By designation of the Administration for Children and Families, a member of the Departmental Appeals Board will be presiding officer for an appeal pursuant to 45 CFR Part 213 concerning the Administration for Children and Families' disapproval of a State plan amendment submitted by the State of Ohio.

The State of Ohio and the Administration for Children and Families have agreed that there are no disputed issues of fact, and that an in-person evidentiary hearing is unnecessary. The presiding officer therefore proposes to consider the appeal based on written briefs without convening an in-person evidentiary hearing.

REQUESTS TO PARTICIPATE: Requests to participate as a party or as an *amicus curiae* must be submitted to the Departmental Appeals Board in the form specified at 45 CFR 213.15 within fifteen days after this publication.

FOR FURTHER INFORMATION CONTACT: Carolyn Reines-Graubard, Departmental Appeals Board, Department of Health and Human Services, Room 637–D, Hubert H. Humphrey Building, 200 Independence Avenue, S.W., Washington, D.C. 20201. Telephone Number: (202) 690–8014.

SUPPLEMENTARY INFORMATION: Notice of appeal is hereby given as set forth in the following letter, which has been sent to the State of Ohio.

Washington, D.C., [date]

Karen Lazorishak
Assistant Attorney General
30 East Broad Street
26th Floor
Columbus, Ohio 43215–3428

Sheila Swanson
Assistant Regional Counsel

Office of the General Counsel
DHHS—Region V
105 West Adams Street, 19th Floor
Chicago, Illinois 60603

Dear Counsel: This letter is in response to the State of Ohio Department of Human Services' request for reconsideration, dated December 1, 1994, of the Administration for Children and Families' (ACF) disapproval of the State's proposed amendment to its plan for implementing title IV–A of the Social Security Act (Aid to Families with Dependent Children, or AFDC) submitted as Transmittal #94–AFDC–01.

Section 402(a)(22) of the Social Security Act requires a state to promptly take all necessary steps to correct any overpayment of aid under the State plan. The section specifically provides that in the case of an overpayment ''to an individual who is a current recipient of such aid * * *, recovery will be made by repayment by the individual or by reducing the amount of any future aid payable to the family of which he is a member * * *.'' The section also provides that, in the case of an overpayment to an individual who is no longer receiving aid, ''recovery shall be made by appropriate action under State law against the income or resources of the individual or the family.''

The implementing regulations provide in pertinent part that ''[t]he State must take all reasonable steps necessary to promptly correct any overpayment * * *.'' 45 C.F.R. 233.20(a)(13)(i)(A). The regulations further provide that ''[t]he State shall recover an overpayment from (1) the assistance unit which was overpaid, or (2) any assistance unit of which a member of the overpaid assistance unit has subsequently become a member, or (3) any individual members of the overpaid assistance unit whether or not currently a recipient.'' Section 233.20(a)(13)(i)(B). In addition, the regulations provide that ''[a] State must take one of the following three actions by the end of the quarter following the quarter in which the overpayment is first identified: (1) Recover the overpayment, (2) initiate action to locate and/or recover the overpayment from a former recipient, or (3) execute a monthly recovery agreement from a current recipient's grant or income/resources.'' Section 233.20(a)(13)(i)(E).

In Transmittal #94–AFDC–01, the State proposed to amend its State plan to bar recovery of AFDC overpayments from children in assistance units that do not include any of the caretakers who actually received the overpayment. The State defined the term ''children'' to include adults who were dependent children at the time the original overpayment occurred. ACF disapproved the proposed plan amendment on the ground that the statute and regulations do not permit a state to categorically exclude any of the sources of recovery specified in the regulations.

I have designated Donald F. Garrett, a Departmental Appeals Board Member, as the presiding officer pursuant to 45 C.F.R. 213.21. ACF and the State are now parties in this matter. 45 C.F.R. 213.15(a). ACF and the State have agreed that there are no disputed issues of fact, and that an in-person evidentiary hearing is not necessary to resolve the State's request for reconsideration. Accordingly, the parties have requested that the appeal be decided based on their written submissions.

A copy of this letter will appear as a Notice in the Federal Register. Any person wishing to request recognition as a party may file a petition pursuant to 45 C.F.R. 213.15(b) with the Departmental Appeals Board within 15 days after that notice has been published. A copy of the petition should be served on each party of record at that time. The petition must explain how the issues to be considered have caused petitioner injury and how petitioner's interest is within the zone of interests to be protected by the governing federal statute. 45 C.F.R. 213.15(b)(1). In addition, the petition must concisely state petitioner's interest in the proceeding, who will represent petitioner, and the issues on which petitioner wishes to participate. 45 C.F.R. 213.15(b)(2). Additionally, if petitioner believes that there are disputed issues of fact which require an in-person evidentiary hearing, the petitioner should concisely specify the disputed issues of fact in the petition, and also state whether petitioner intends to present witnesses. Any party may, within five days of receipt of such petition, file comments thereon; the presiding officer will subsequently issue a ruling on whether and on what basis participation will be permitted.

Any interested person or organization wishing to participate as *amicus curiae* may also file a petition with the Departmental Appeals Board which shall conform to the requirements of 45 C.F.R. 213.15(c)(1). The petition should be filed within 15 days after this notice. The petition should specify the nature of the participation desired. The presiding officer will subsequently issue a ruling on the petition. The Ohio State Legal Services Association has already requested and been granted permission to participate as *amicus curiae* in this case and has presented its arguments on the merits of the case in writing.

Any submissions or correspondence regarding this matter should be filed in an original and two copies with Mr. Garrett at the Departmental Appeals Board, Room 635–D, Hubert H. Humphrey Building, 200 Independence Avenue, S.W., Washington, D.C. 20201, where the record in this matter will be kept. Each submission must include a statement that a copy of the material has been sent to the other party (or to both parties if the submission is made by a non-party), identifying when and to whom the copy was sent. For convenience, please refer to Board Docket No. A–95–42.

Mary Jo Bane,

Assistant Secretary for Children and Families.

[FR Doc. 95–27239 Filed 11–1–95; 8:45 am]

BILLING CODE 4184–01–P

Health Care Financing Administration

Public Information Collection Requirements Submitted for Public Comment and Recommendations

AGENCY: Health Care Financing Administration, DHHS.

In compliance with the requirement of section 3506(c)(2)(A) of the Paperwork Reduction Act of 1995, the Health Care Financing Administration (HCFA), Department of Health and Human Services, has submitted to the Office of Management and Budget (OMB) the following proposals for the collection of information. Interested persons are invited to send comments regarding this burden estimate or any other aspect of this collection of information, including any of the following subjects: (1) The necessity and utility of the proposed information collection for the proper performance of the agency's functions; (2) the accuracy of the estimated burden; (3) ways to enhance the quality, utility, and clarity of the information to be collected; and (4) the use of automated collection techniques or other forms of information technology to minimize the information collection burden.

1. *Type of Information Collection Request:* New collection; *Title of Information Collection:* Evaluation of the Oregon Medicaid Reform Demonstration, Baseline Survey; *Form No.:* HCFA–R–179; *Use:* The baseline survey is one component in the evaluation of the Oregon Medicaid Reform Demonstration (OMRD), a demonstration authorized under section 115 of the Social Security Act. The purpose of the survey is to gather information on the health status, past utilization, and level of satisfaction of a sample of newly enrolled OMRD recipients, in a way that allows followup contact and maximizes the likelihood of preenrollment recall. *Frequency:* Annually; *Affected Public:* Individuals or households; *Number of Respondents:* 2,667; *Total Annual Hours:* 500.

2. *Type of Information Collection Request:* New collection; *Title of Information Collection:* Field Testing of the Uniform Needs Assessment Instrument; *Form No.:* HCFA–R–180; *Use:* The validity, reliability, and administrative feasibility of the Uniform Needs Assessment instrument will be tested in a small-scale trial. Also, a high risk screener will be developed to identify hospital patients in need of extensive discharge planning. Testing will be done in two phases approximately 1 year apart. Each phase will involve 12 provider sites, 420 patients, and 840 total assessments. *Frequency:* Annually; *Affected Public:* Individuals or households, business or other for profit and not-for-profit institutions; *Number of Respondents:* 420; *Total Annual Hours:* 1,050.

3. *Type of Information Collection Request:* New collection; *Title of*

Information Collection: Data Collection and Analysis for Generating Procedure Specific Cost Estimates; *Form No.:* HCFA–R–181; *Use:* The Survey of Practice Costs is a survey of provider practices whose services are covered by the Medicare Fee Schedule (MFS). The data collected from this survey will enable HCFA to meet its congressional mandate to develop resource-based practice expense relative value unit estimates for the MFS by 1998; *Frequency:* Annually; *Affected Public:* Individuals or households, business or other for profit; *Number of Respondents:* 3,500; *Total Annual Hours:* 10,500.

4. *Type of Information Collection Request:* Revision of a currently approved collection; *Title of Information Collection:* Evaluation of the Medicare Cataract Surgery Alternate Payment Demonstration; *Form No.:* HCFA–R–154; *Use:* This survey will be implemented in an effort to estimate the effects of a bundled payment for cataract surgery on Medicare beneficiaries. Effects of the packaged payment on the nature of services, quality, and satisfaction will be measured. *Frequency:* Annually; *Affected Public:* Individuals or households, business or other for profit, not for profit; *Number of Respondents:* 1,686; *Total Annual Hours:* 506.

5. *Type of Information Collection Request:* Reinstatement, with change, of a previously approved collection for which approval has expired; *Title of Information Collection:* Alternative Quality Assessment Survey; *Form No.:* HCFA–667; *Use:* This survey is used in lieu of an onsite survey for those Clinical Laboratory Improvement Amendments of 1988 (CLIA) laboratories with good performance determined by their last onsite survey, and is designed to screen laboratories and alert HCFA to where an onsite inspection is vital. The survey has been revised to reflect CLIA's streamlined inspection process, to reduce burden, and to improve the CLIA system by rewarding good performance. *Frequency:* Annually; *Affected Public:* Business or other for profit, not for profit, Federal Government, State, local, or tribal government; *Number of Respondents:* 4,000; *Total Annual Hours:* 6,000.

To request copies of the proposed paperwork collections referenced above, E-mail your request, including your address, to Paperwork@hcfa.gov, or call the Reports Clearance Office on (410) 786–1326. Written comments and recommendations for the proposed information collections should be sent within 30 days of this notice directly to the OMB Desk Officer designated at the following address: OMB Human Resources and Housing Branch, Attention: Allison Eydt, New Executive Office Building, Room 10235, Washington, D.C. 20503.

Dated: October 25, 1995.

Kathleen B. Larson,

Director, Management Planning and Analysis Staff, Office of Financial and Human Resources, Health Care Financing Administration.

[FR Doc. 95–27222 Filed 11–1–95; 8:45 am]

BILLING CODE 4120–03–P

Health Resources and Services Administration

Advisory Council; Notice of Meeting

In accordance with section 10(a)(2) of the Federal Advisory Committee Act (Pub. L. 92–463), announcement is made of the following National Advisory bodies scheduled to meet during the months of November and December 1995.

Name: Advisory Commission on Childhood Vaccines (ACCV).

Date and Time: November 29, 9:00 am–5:00 pm.

Place: Parklawn Building, Conference Room D, 5600 Fishers Lane, Rockville, Maryland 20857.

The meeting is open to the public.

Agenda: Agenda items will include, but not be limited to: a report on the National Vaccine Program; a report on the Advisory Committee on Immunizations (ACIP) and Polio Vaccine Policy; an overview of reports to the Vaccine Adverse Events Reporting System (VAERS); an update on the Vaccine Information Statements and the Hepatitis B and Haemophilus influenzae type b Vaccine Information Statements; a report on the International Symposium on Acellular Pertussis Vaccine Trials; a report of the Vaccine Safety Subcommittee; and routine Program reports.

Public comment will be permitted before noon and/or at the end of the Commission meeting, as time permits. Oral presentations will be limited to 5 minutes per public speaker.

Persons interested in providing an oral presentation should submit a written request, along with a copy of their presentation to Mr. Jerry Anderson, Principal Staff Liaison, Division of Vaccine Injury Compensation, Bureau of Health Professions, Health Resources and Services Administration, Room 8A–35, 5600 Fishers Lane, Rockville, MD 20852; Telephone (301) 443–1533.

Requests should contain the name, address, telephone number, and any business or professional affiliation of the person desiring to make an oral presentation. Groups having similar interests are requested to combine their comments and present them through a single representative. The allocation of time may be adjusted to accommodate the level of expressed interest. The Division of Vaccine Injury Compensation will notify each presenter by mail or telephone of their assigned presentation time. Persons who do not file an advance request for presentation, but desire to make an oral statement, may sign up in Conference Room D before 10:00 a.m. on November 29. These persons will be allocated time as time permits.

Anyone requiring information regarding the Commission should contact Mr. Anderson, Division of Vaccine Injury Compensation, Bureau of Health Professions, Health Resources and Services Administration, Room 8A–35, 5600 Fishers Lane, Rockville, Maryland 20852; Telephone (301) 443–1533.

Name: HRSA Aids Advisory Committee.

Time: December 13–14, 1995 8:00 a.m.

Place: Embassy Row Hotel, Ambassador Room, 2015 Massachusetts Avenue, N.W., Washington, D.C. 20036.

The meeting is open to the public.

Agenda: The topics to be discussed include the HIV/AIDS and Managed Care; Leadership Development of Persons Living with AIDS; ACTG 076 Implementation Update; and Medical Advice/Sterile Syringes for Drug Injectors.

Anyone requiring information regarding the subject Committee should contact Judy Hagopian, AIDS Program Office, Health Resources and Services Administration, Room 14A–21, Parklawn Building, 5600 Fishers Lane, Rockville, Maryland 20857, Telephone (301) 443–0866.

Name: National Advisory Council on Nurse Education and Practice.

Date and Time: December 14–15, 1995, 8:30 a.m.

Place: Parklawn Building, Conference Room G, 5600 Fishers Lane, Rockville, Maryland 20857.

The meeting is open to the public.

Agenda: Agenda items for the meeting will cover report and discussion on the status of Legislation and budget, discussion of follow-up actions from the Council on Graduate Medical Education and the National Advisory Council on Nurse Education and Practice Joint Council Meeting, reports from the Workgroups and discussion of Next Steps.

Anyone wishing to obtain a roster of members, minutes of meeting or other relevant information should write or contact Ms. Melanie Timberlake, Executive Secretary, National Advisory Council on Nurse Education and Practice, Parklawn Building, Room 9–36, 5600 Fishers Lane, Rockville, Maryland 20857, Telephone (301)443–5786.

Agenda Items are subject to change as priorities dictate.

Dated: October 30, 1995.

Jackie E. Baum,

Advisory Committee Management Officer, HRSA.

[FR Doc. 95–27189 Filed 11–1–95; 8:45 am]

BILLING CODE 4160–15–P

Office of Inspector General

Publication of the Medicare Advisory Bulletin on Hospice Benefits

AGENCY: Office of Inspector General, HHS.

ACTION: Notice.

SUMMARY: This Federal Register notice sets forth a recently issued Advisory Bulletin, in conjunction with Operation Restore Trust, that identifies important eligibility and other information involving the current Medicare hospice benefit. This Advisory Bulletin has been made available to consumers, health care professionals and health care associations, and is now being reprinted in this issue of the Federal Register as a means of ensuring public awareness of the purposes of hospice care and the consequences of electing the Medicare hospice benefit.

FOR FURTHER INFORMATION CONTACT: Joel J. Schaer, Office of Management and Policy, (202) 619–0089.

SUPPLEMENTARY INFORMATION: This Medicare Advisory Bulletin is part of Operation Restore Trust—a joint effort among the Office of Inspector General (OIG), the Health Care Financing Administration (HCFA) and the Administration on Aging within the Department of Health and Human Services to combat fraud, waste and abuse in the Medicare and Medicaid programs. The purpose of this Advisory Bulletin is to inform consumers and health care professionals about certain questionable practices affecting Medicare's hospice program. The issuance calls specific attention to the possible misuse of the hospice benefit, as uncovered through collaborative work undertaken by the OIG and HCFA.

Specifically, the Advisory Bulletin highlights several practices which indicate that some hospice providers may have inappropriately maximized their Medicare reimbursements at beneficiary expense. These practices include:

- Making incorrect determinations of a person's life expectancy for purposes of meeting hospice eligibility criteria;
- Engaging in marketing and sales strategies that offer incomplete or inadequate information about Medicare entitlement under the hospice program to induce beneficiaries to elect hospice and thereby waive aggressive treatment options that Medicare would otherwise cover; and
- Encouraging hospice beneficiaries to temporarily revoke their election of hospice during a period when costly services covered by a plan of care are needed in order for the hospice to avoid the obligation to pay for such services.

A reprint of this Medicare Advisory Bulletin follows.

Medicare Advisory Bulletin—Questionable Practices Affecting the Hospice Benefit October 1995

The Department of Health and Human Services administers the Medicare program for the benefit of 38 million elderly and disabled Americans. In May 1995, the Secretary of Health and Human Services announced Operation Restore Trust, a joint project of the Office of Inspector General, the Health Care Financing Administration and the Administration on Aging. Among its objectives, Operation Restore Trust seeks to identify vulnerabilities in the Medicare program, and pursue ways to reduce Medicare's exposure to fraud, waste and abuse.

This Advisory Bulletin is a product of Operation Restore Trust. The bulletin describes some potentially abusive practices which have been identified through examination of the Medicare hospice benefit.

What Is Medicare's Hospice Program?

The goal of hospice care is to help terminally ill patients continue with their normal activities of daily living as comfortably as possible, while remaining primarily in a home environment. To achieve this goal, the Medicare program shifts the focus of medical attention from curative treatment seeking to reverse an underlying disease or condition to palliative or supportive care, including a wide range of medical, social, and emotional supportive services.

To be eligible for hospice services under Medicare, an individual must be certified as terminally ill by hospice medical staff and the individual's attending physician if he or she has one. Terminal illness is defined as a medical prognosis that the patient's life expectancy is 6 months or less if the terminal illness runs its normal course. The Medicare beneficiary's inclusion in a hospice program is voluntary and can be revoked by the beneficiary at any time.

The decision to elect the hospice benefit has significant consequences because the beneficiary waives the right to receive standard Medicare benefits, related to the terminal illness, including all treatment for the purposes of curing a terminal illness. Hospice coverage is divided into four discrete election periods, during each of which the beneficiary must be certified as terminally ill. The fourth and last election period has an indefinite duration, unless or until the beneficiary no longer meets the eligibility requirement of a prognosis of 6 months or less to live.

What Problems Have Been Identified?

In the course of reviewing trends in Medicare's hospice program, the Office of Inspector General has learned of activities that should be of concern to beneficiaries who are in hospice or who are considering the option of hospice. These questionable practices primarily involve issues of hospice enrollment and are the subject of ongoing analysis by the Medicare program and, in appropriate cases, investigations and audits by the Office of Inspector General. Some hospice providers, in efforts to maximize their Medicare reimbursement, may knowingly engage in one or more of the following activities:

- Making incorrect determinations of a person's life expectancy, for the purposes of meeting hospice eligibility criteria.
- Engaging in marketing/sales strategies that offer incomplete or inadequate information about Medicare entitlement and restrictions under the hospice program, in order to induce beneficiaries to elect hospice and thereby waive other treatment benefits.
- Encouraging hospice beneficiaries or their representatives to temporarily revoke their election of hospice during a period when costly services covered by the hospice plan of care are needed, so that the hospice may avoid the obligation to pay for these services.

Important Features of the Medicare Hospice Benefit

- *The hospice benefit is restricted to patients with a diagnosis of terminal illness and prognosis of 6 months or less to live.*

In several recent medical reviews of beneficiary eligibility for hospice, the Office of Inspector General has found significant inaccuracies in the determinations of terminal illness. These findings have prompted a concern that some hospices may intentionally misrepresent a condition as terminal in order to secure Medicare reimbursement. For instance, investigators have encountered hospices that asked nurse employees to alter notes in patients' records or to otherwise misrepresent patients' medical conditions, in order to falsify the existence of a terminal condition.

There have also been cases where physician certifications of terminal illness have been medically questionable. If a hospice submits claims to Medicare under circumstances

where it knows of the absence of a terminal condition, the hospice may be liable for the submission of false claims. Criminal penalties can also be imposed against persons who knowingly and willfully make false representations about a patient's medical condition which are used to determine eligibility for payment of Medicare or Medicaid benefits.

• *A hospice should not refuse to address health care needs relating to a beneficiary's terminal diagnosis.*

Once a Medicare beneficiary elects hospice care, the hospice is responsible for furnishing directly, or arranging for, all supplies and services that relate to the beneficiary's terminal condition, except the services of an attending physician. Hospice beneficiaries have the right to receive covered medical, social and emotional support services from the hospice directly, or through arrangements made by the hospice, and should not be forced to seek or pay for such care from non-hospice providers.

When a beneficiary is receiving hospice care, the hospice is paid a predetermined fee for each day during the length of care, no matter how much care the hospice actually provides. This means that a hospice may have a financial incentive to reduce the number of services provided to each patient, since the hospice will get paid the same amount regardless of the number of services provided.

Medicare has received complaints about hospices neglecting patient needs and ignoring reasonable requests for treatment. One individual reported that his wife's hospice failed on three separate occasions to respond to telephonic requests for emergency services. He was forced to call a non-hospice physician who arranged for hospitalization. His wife's care required a 26-day length of stay. Although the hospital contacted the hospice the day following admission, the hospice did not visit the patient or in any way coordinate her care during the hospital stay.

The Office of Inspector General also has uncovered situations where duplicate claims were submitted by a hospice and other providers (such as skilled nursing homes and hospitals) for services related to the beneficiary's terminal illness. In a nationwide audit of services provided to Medicare beneficiaries enrolled in hospice programs, approximately $21.6 million was improperly paid to hospitals and nursing homes for the treatment of hospice beneficiaries. Hospices are required to make financial arrangements for hospitalization, nursing services and all other health care needs related to the beneficiary's terminal illness and included in the hospice plan of care. The cost of these services should be paid by the hospices.

• *A beneficiary has a right to expect a hospice to provide complete and accurate information about the consequences of hospice election and revocation.*

A hospice is obligated to inform beneficiaries or their representatives that by electing the hospice benefit, they waive all rights to curative treatment or other standard Medicare benefits related to the terminal illness, except for the services of an attending physician. Some hospices inappropriately induce beneficiaries or their representatives to enroll in the hospice program without explaining that hospice election results in forfeiture of curative treatment benefits under Medicare. For instance, some hospices have solicited the beneficiary's neighbors and friends, who in some jurisdictions may act as beneficiary representatives, and who may not be familiar with the beneficiary's medical condition. In these situations, the beneficiary and/or representative may not appreciate that traditional Medicare benefits will be denied once the hospice benefit is elected.

The Office of Inspector General also has learned of hospices which induce beneficiaries to revoke the hospice election if expensive palliative treatment, even for a temporary period, becomes necessary. As a consequence, beneficiaries may then be burdened with substantial co-payments that would not be charged under hospice. It is especially important to note that when a beneficiary revokes the hospice election during the last election period, re-enrollment in the Medicare hospice benefit will be precluded permanently.

You Should Be Alert to the Following Questionable Activities

• Hospice recruiters failing to notify prospective patients or their representatives that they will no longer be entitled to Medicare coverage of curative treatment if they elect the hospice benefit.

• Hospice personnel inducing beneficiaries to revoke their hospice election when more costly treatment is needed.

• A hospice refusing or failing to provide or arrange for needed care;

• Nursing home residents being induced to elect hospice but not receiving the additional benefits of hospice care;

• Non-hospice providers charging Medicare for services to hospice patients that hospices can and should provide, such as counseling or medical equipment.

What To Do With Information About Questionable Practices Involving Hospice

If you have questions about the scope of the hospice benefit or the care you are receiving in hospice, you should first consider discussing these matters with your attending physician or the hospice provider. If you wish to report questionable practices, call or write: 1–800–HHS–TIPS, Department of Health and Human Services, Office of Inspector General, P.O. Box 23489, L'Enfant Plaza Station, Washington, D.C. 20026–3489.

Dated: October 23, 1995.

June Gibbs Brown,

Inspector General.

[FR Doc. 95–27217 Filed 11–1–95; 8:45 am]

BILLING CODE 4150–04–P

National Institutes of Health

National Institute of General Medical Sciences; Notice of Cancellation of Meeting

Notice is hereby given of a cancellation of the meeting of the following committee on the National Institute of General Medical Sciences for November 1995, which was published in the Federal Register Notice on September 15, (60 FR 47951).

Name of Committee: Genetic Basis of Disease Review Committee.

Dates of Meeting: November 6–7, 1995.

Place of Meeting: National Institutes of Health, 45 Center Drive, Natcher Building, Room F2, Bethesda, MD 20892–6200.

Closed: November 6, 8:30 a.m.—5 p.m., November 7, 8:30 —adjournment.

The meeting was canceled due to administrative complications.

Dated: October 30, 1995.

Susan K. Feldman,

Committee Management Officer, NIH.

[FR Doc. 95–27255 Filed 11–1–95; 8:45 am]

BILLING CODE 4140–01–M

National Heart, Lung, and Blood Institute; Notice of Meeting

Notice is hereby given of the meeting of the National Heart Attack Alert Program Coordinating Committee, sponsored by the National Heart, Lung, and Blood Institute on Tuesday, December 12, 1995, from 8:30 a.m. to 3:30 p.m. at the Bethesda Marriott Hotel, 5151 Pooks Hill Road, Bethesda, Maryland 20814 (301) 897–9400.

The entire meeting is open to the public. The Coordinating Committee is meeting to examine policies and trends in the emerging managed care

environment as they relate to access to care for patients with acute cardiac ischemia. Attendance by the public will be limited to space available.

For detailed program information, agenda, list of participants, and meeting summary, contact: Ms. Mary Hand, Coordinator, National Heart Attack Alert Program, Office of Prevention, Education and Control; National Heart, Lung, and Blood Institute; National Institutes of Health, Building 31, Room 4A–18, 31 Center Drive MSC 2480, Bethesda, Maryland 20892–2480, (301) 496–1051.

Dated: October 23, 1995.

Claude Lenfant,

Director, NHLBI.

[FR Doc. 95–27174 Filed 11–1–95; 8:45 am]

BILLING CODE 4140–01–M

National Institute of Mental Health; Amended Notice of Meeting

Notice is hereby given of a change in the meeting of the National Institute of Mental Health Initial Review Group, Mental Health AIDS and Immunology Review Committee, which was published in the Federal Register on September 1, 1995 (60 CFR 45728).

This committee was to have convened at 8:30 a.m. on November 7 at the One Washington Circle Hotel in Washington, D.C. The starting date has been changed to November 6.

Dated: October 30, 1995.

Susan K. Feldman,

Committee Management Officer, NIH.

[FR Doc. 95–27256 Filed 11–1–95; 8:45 am]

BILLING CODE 4140–01–M

Division of Research Grants; Notice of Closed Meetings

Pursuant to Section 10(d) of the Federal Advisory Committee Act, as amended (5 U.S.C. Appendix 2), notice is hereby given of the following Division of Research Grants Special Emphasis Panel (SEP) meetings:

Purpose/Agenda: To review Small Business Innovation Research.

Name of SEP: Biological and Physiological Sciences.

Date: November 6, 1995.

Time: 8:30 a.m.

Place: American Inn of Bethesda, Bethesda, Maryland.

Contact Person: Dr. Abubakar A. Shaikh, Scientific Review Administrator, 6701 Rockledge Drive, Room 6166, Bethesda, Maryland 20892, (301) 435–1042.

Purpose/Agenda: To review individual grant applications.

Name of SEP: Biological and Physiological Sciences.

Date: November 17, 1995.

Time: 3:00 p.m.

Place: NIH, Rockledge 2, Room 6166, Telephone Conference.

Contact Person: Dr. Abubakar A. Shaikh, Scientific Review Administrator, 6701 Rockledge Drive, Room 6166, Bethesda, Maryland 20892, (301) 435–1042.

Name of SEP: Clinical Sciences.

Date: November 21, 1995.

Time: 10:30 a.m.

Place: Holiday Inn-Olde Town Alexandria, Alexandria, Virginia.

Contact Person: Dr. Priscilla B. Chen, Scientific Review Administrator, 6701 Rockledge Drive, Room 4104, Bethesda, Maryland 20892, (301) 435–1787.

Name of SEP: Microbiological and Immunological Sciences.

Date: December 6, 1995.

Time: 1:30 p.m.

Place: NIH, Rockledge 2, Room 4182, Telephone Conference.

Contact Person: Dr. William Branche, Jr., Scientific Review Administrator, 6701 Rockledge Drive, Room 4182, Bethesda, Maryland 20892, (301) 435–1148.

Name of SEP: Microbiological and Immunological Sciences.

Date: December 11, 1995.

Time: 1:30 p.m.

Place: NIH, Rockledge 2, Room 4182, Telephone Conference.

Contact Person: Dr. William Branche, Jr., Scientific Review Administrator, 6701 Rockledge Drive, Room 4182, Bethesda, Maryland 20892, (301) 435–1148.

The meetings will be closed in accordance with the provisions set forth in sections 552b(c)(4) and 552b(c)(6), Title 5, U.S.C. Applications and/or proposals and the discussions could reveal confidential trade secrets or commercial property such as patentable material and personal information concerning individuals associated with the applications and/or proposals, the disclosure of which would constitute a clearly unwarranted invasion of personal privacy.

This notice is being published less than 15 days prior to the meeting due to the urgent need to meet timing limitations imposed by the grant review cycle.

(Catalog of Federal Domestic Assistance Program Nos. 93.306, 93.333, 93.337, 93.393–93.396, 93.837–844, 93.846–93.878, 93.892, 93.893, National Institutes of Health, HHS)

Dated: October 30, 1995.

Susan K. Feldman,

Committee Management Officer, NIH.

[FR Doc. 95–27254 Filed 11–1–95; 8:45 am]

BILLING CODE 4140–01–M

Public Health Service

Health Resources and Services Administration; Statement of Organization, Functions and Delegations of Authority

Part H, Chapter HB (Health Resources and Services Administration) of the Statement of Organization, Functions and Delegations of Authority of the Department of Health and Human Services (47 FR 38409–24, August 31, 1982, as amended most recently at 60 FR 48164, September 18, 1995 is amended to reflect the following changes in the Bureau of Health Resources Development:

1. Rename the Division of Organ Transplantation;

2. Abolish the Equal Employment Opportunity Staff in the Office of the Director; and

3. Revise the Immediate Office of the Director.

Under Section HB–20, Organization and Functions, amend the functional statements for the *Health Resources and Services Administration (HBB)* as follows:

1. Rename the *Division of Organ Transplantation (HBB3),* to the Division of Transplantation. The functional statement is not changed.

2. Delete the *Equal Employment Opportunity Staff,* Office of the Director, functional statement in its entirety;

3. Delete the functional statement of the Office of the Director (HBB1) and enter the following:

Office of the Director (HBB1)

Provides leadership and direction for the programs and activities of the Bureau and oversees its relationship with other national health programs. Specifically: (1) Coordinates the internal functions of the Bureau and its relationships with other national health programs; (2) establishes program objectives, alternatives, and polity positions consistent with legislation and broad Administration guidelines; (3) develops and administers operating policies and procedures, and provides guidance and assistance to regional staff as appropriate; (4) evaluates program accomplishments; (5) serves as principal contact and advisor to the Department and other parties concerned with matters relating to planning and development of health delivery systems; (6) provides information about Bureau programs to the general public, health professions associations, and other interested groups and organizations; (7) directs and coordinates Bureau Executive Secretariat activities; (8) directs and coordinates the Bureau activities carried out in support of the Department/Bureau's Affirmative Action and Equal Employment Opportunity programs by ensuring that all internal employment practices provide an equal opportunity to all qualified persons and its employment practices do not discriminate on the basis of race, color, sex, national origin, religious affiliation, marital age or handicap status, and that all external

benefits and service oriented activities relative to the recipients of federal funds are likewise addressed in accordance with applicable laws, Executive Orders, DHHS regulations and policies; and (9) provides direction for the Bureau's Civil Rights compliance activities.

Delegations of Authority

All delegations and redelegations of authorities to offices and employees of the Health Resources and Services Administration which were in effect immediately prior to the effective date of this reorganization will be continued in effect in them or their successors, pending further redelegation, provided they are consistent with this reorganization.

Effective Date

This reorganization is effective upon date of signature.

Dated: October 28, 1995.

Ciro V. Sumaya,

Administrator.

[FR Doc. 95–27190 Filed 11–1–95; 8:45 am]

BILLING CODE 4160–15–M

Substance Abuse and Mental Health Services Administration

Current List of Laboratories Which Meet Minimum Standards To Engage in Urine Drug Testing for Federal Agencies and Laboratories That Have Withdrawn From the Program

AGENCY: Substance Abuse and Mental Health Services Administration, HHS (Formerly: National Institute on Drug Abuse, ADAMHA, HHS).

ACTION: Notice.

SUMMARY: The Department of Health and Human Services notifies Federal agencies of the laboratories currently certified to meet standards of Subpart C of Mandatory Guidelines for Federal Workplace Drug Testing Programs (59 FR 29916, 29925). A similar notice listing all currently certified laboratories will be published during the first week of each month, and updated to include laboratories which subsequently apply for and complete the certification process. If any listed laboratory's certification is totally suspended or revoked, the laboratory will be omitted from updated lists until such time as it is restored to full certification under the Guidelines.

If any laboratory has withdrawn from the National Laboratory Certification Program during the past month, it will be identified as such at the end of the current list of certified laboratories, and will be omitted from the monthly listing thereafter.

FOR FURTHER INFORMATION CONTACT: Mrs. Giselle Hersh, Division of Workplace Programs, Room 13A–54, 5600 Fishers Lane, Rockville, Maryland 20857; Tel.: (301) 443–6014.

SUPPLEMENTARY INFORMATION:

Mandatory Guidelines for Federal Workplace Drug Testing were developed in accordance with Executive Order 12564 and section 503 of Public Law 100–71. Subpart C of the Guidelines, ''Certification of Laboratories Engaged in Urine Drug Testing for Federal Agencies,'' sets strict standards which laboratories must meet in order to conduct urine drug testing for Federal agencies. To become certified an applicant laboratory must undergo three rounds of performance testing plus an on-site inspection. To maintain that certification a laboratory must participate in a quarterly performance testing program plus periodic, on-site inspections.

Laboratories which claim to be in the applicant stage of certification are not to be considered as meeting the minimum requirements expressed in the HHS Guidelines. A laboratory must have its letter of certification from SAMHSA, HHS (formerly: HHS/NIDA) which attests that it has met minimum standards.

In accordance with Subpart C of the Guidelines, the following laboratories meet the minimum standards set forth in the Guidelines:

Aegis Analytical Laboratories, Inc., 624 Grassmere Park Rd., Suite 21, Nashville, TN 37211, 615–331–5300

Alabama Reference Laboratories, Inc., 543 South Hull St., Montgomery, AL 36103, 800–541–4931/205–263–5745

American Medical Laboratories, Inc., 14225 Newbrook Dr., Chantilly, VA 22021, 703–802–6900

Associated Pathologists Laboratories, Inc., 4230 South Burnham Ave., Suite 250, Las Vegas, NV 89119–5412, 702–733–7866

Associated Regional and University Pathologists, Inc. (ARUP), 500 Chipeta Way, Salt Lake City, UT 84108, 801–583–2787

Baptist Medical Center—Toxicology Laboratory, 9601 I–630, Exit 7, Little Rock, AR 72205–7299, 501–227–2783 (Formerly: Forensic Toxicology Laboratory Baptist Medical Center)

Bayshore Clinical Laboratory, 4555 W. Schroeder Dr., Brown Deer, WI 53223, 414–355–4444/800–877–7016

Cedars Medical Center, Department of Pathology, 1400 Northwest 12th Ave., Miami, FL 33136, 305–325–5810

Centinela Hospital Airport Toxicology Laboratory, 9601 S. Sepulveda Blvd., Los Angeles, CA 90045, 310–215–6020

Clinical Reference Lab, 11850 West 85th St., Lenexa, KS 66214, 800–445–6917

CompuChem Laboratories, Inc., 3308 Chapel Hill/Nelson Hwy., Research Triangle Park, NC 27709, 919–549–8263/800–833–3984 (Formerly: CompuChem Laboratories, Inc., A Subsidiary of Roche Biomedical Laboratory, Roche CompuChem Laboratories, Inc., A Member of the Roche Group)

CompuChem Laboratories, Inc., Special Division, 3308 Chapel Hill/Nelson Hwy., Research Triangle Park, NC 27709, 919–549–8263 (Formerly: Roche CompuChem Laboratories, Inc., Special Division, A Member of the Roche Group, CompuChem Laboratories, Inc.—Special Division)

CORNING Clinical Laboratories, South Central Divison, 2320 Schuetz Rd., St. Louis, MO 63146, 800–288–7293 (Formerly: Metropolitan Reference Laboratories, Inc.)

CORNING Clinical Laboratories, 8300 Esters Blvd., Suite 900, Irving, TX 75063, 800–526–0947 (Formerly: Damon Clinical Laboratories, Damon/MetPath)

CORNING Clinical Laboratories, 24451 Telegraph Rd., Southfield, MI 48034, 800–444–0106 ext. 650 (Formerly: HealthCare/Preferred Laboratories, HealthCare/MetPath)

CORNING Clinical Laboratories Inc., 1355 Mittel Blvd., Wood Dale, IL 60191, 708–595–3888 (Formerly: MetPath, Inc., CORNING MetPath Clinical Laboratories)

CORNING MetPath Clinical Laboratories, One Malcolm Ave., Teterboro, NJ 07608, 201–393–5000 (Formerly: MetPath, Inc.)

CORNING National Center for Forensic Science, 1901 Sulphur Spring Rd., Baltimore, MD 21227, 410–536–1485 (Formerly: Maryland Medical Laboratory, Inc., National Center for Forensic Science)

CORNING Nichols Institute, 7470–A Mission Valley Rd., San Diego, CA 92108–4406, 800–446–4728/619–686–3200 (Formerly: Nichols Institute, Nichols Institute Substance Abuse Testing (NISAT))

Cox Medical Centers, Department of Toxicology, 1423 North Jefferson Ave., Springfield, MO 65802, 800–876–3652/417–836–3093

Dept. of the Navy, Navy Drug Screening Laboratory, Great Lakes, IL, Building 38–H, Great Lakes, IL 60088–5223, 708–688–2045/708–688–4171

Diagnostic Services Inc., dba DSI, 4048 Evans Ave., Suite 301, Fort Myers, FL 33901, 813–936–5446/800–735–5416

Doctors Laboratory, Inc., P.O. Box 2658, 2906 Julia Dr., Valdosta, GA 31604, 912–244–4468

Drug Labs of Texas, 15201 I–10 East, Suite 125, Channelview, TX 77530, 713–457–3784

DrugProof, Division of Dynacare/ Laboratory of Pathology, LLC, 1229 Madison St., Suite 500, Nordstrom Medical Tower, Seattle, WA 98104, 800–898–0180/206–386–2672 (Formerly: Laboratory of Pathology of Seattle, Inc., DrugProof, Division of Laboratory of Pathology of Seattle, Inc.)

DrugScan, Inc., P.O. Box 2969, 1119 Mearns Rd., Warminster, PA 18974, 215–674–9310

ElSohly Laboratories, Inc., 5 Industrial Park Dr., Oxford, MS 38655, 601–236–2609

General Medical Laboratories, 36 South Brooks St., Madison, WI 53715, 608–267–6267

Harrison Laboratories, Inc., 9930 W. Highway 80, Midland, TX 79706, 800–725–3784/915–563–3300 (Formerly: Harrison & Associates Forensic Laboratories)

Holmes Regional Medical Center Toxicology Laboratory, 5200 Babcock St., N.E., Suite 107, Palm Bay, FL 32905, 407–726–9920

Jewish Hospital of Cincinnati, Inc., 3200 Burnet Ave., Cincinnati, OH 45229, 513–569–2051

LabOne, Inc., 8915 Lenexa Dr., Overland Park, Kansas 66214, 913–888–3927 (Formerly: Center for Laboratory Services, a Division of LabOne, Inc.)

Laboratory Corporation of America, 13900 Park Center Rd., Herndon, VA 22071, 703–742–3100 (Formerly: National Health Laboratories Incorporated)

Laboratory Corporation of America, d.b.a. LabCorp Reference Laboratory, Substance Abuse Division, 1400 Donelson Pike, Suite A–15, Nashville, TN 37217, 615–360–3992/800–800–4522 (Formerly: National Health Laboratories Incorporated, d.b.a. National Reference Laboratory, Substance Abuse Division)

Laboratory Corporation of America, 21903 68th Ave. South, Kent, WA 98032, 206–395–4000 (Formerly: Regional Toxicology Services)

Laboratory Corporation of America Holdings, 1120 Stateline Rd., Southaven, MS 38671, 601–342–1286 (Formerly: Roche Biomedical Laboratories, Inc.)

Laboratory Corporation of America Holdings, 69 First Ave., Raritan, NJ 08869, 800–437–4986 (Formerly: Roche Biomedical Laboratories, Inc.)

Laboratory Specialists, Inc., 113 Jarrell Dr., Belle Chasse, LA 70037, 504–392–7961

Marshfield Laboratories, 1000 North Oak Ave., Marshfield, WI 54449, 715–389–3734/800–222–5835

MedExpress/National Laboratory Center, 4022 Willow Lake Blvd., Memphis, TN 38175, 901–795–1515

Medical College Hospitals Toxicology Laboratory, Department of Pathology, 3000 Arlington Ave., Toledo, OH 43699–0008, 419–381–5213

Medlab Clinical Testing, Inc., 212 Cherry Lane, New Castle, DE 19720, 302–655–5227

MedTox Laboratories, Inc., 402 W. County Rd. D, St. Paul, MN 55112, 800–832–3244/612–636–7466

Methodist Hospital of Indiana, Inc., Department of Pathology and Laboratory Medicine, 1701 N. Senate Blvd., Indianapolis, IN 46202, 317–929–3587

Methodist Medical Center Toxicology Laboratory, 221 N.E. Glen Oak Ave., Peoria, IL 61636, 800–752–1835/309–671–5199

MetPath Laboratories, 875 Greentree Rd., 4 Parkway Ctr., Pittsburgh, PA 15220–3610, 412–931–7200 (Formerly: Med-Chek Laboratories, Inc., Med-Chek/Damon)

MetroLab-Legacy Laboratory Services, 235 N. Graham St., Portland, OR 97227, 503–413–4512, 800–237–7808(x4512)

National Psychopharmacology Laboratory, Inc., 9320 Park W. Blvd., Knoxville, TN 37923, 800–251–9492

National Toxicology Laboratories, Inc., 1100 California Ave., Bakersfield, CA 93304, 805–322–4250

Northwest Toxicology, Inc., 1141 E. 3900 South, Salt Lake City, UT 84124, 800–322–3361

Oregon Medical Laboratories, P.O. Box 972, 722 East 11th Ave., Eugene, OR 97440–0972, 503–687–2134

Pathology Associates Medical Laboratories, East 11604 Indiana, Spokane, WA 99206, 509–926–2400

PDLA, Inc. (Princeton), 100 Corporate Court, So. Plainfield, NJ 07080, 908–769–8500/800–237–7352

PharmChem Laboratories, Inc., 1505–A O'Brien Dr., Menlo Park, CA 94025, 415–328–6200/800–446–5177

PharmChem Laboratories, Inc., Texas Division, 7606 Pebble Dr., Fort Worth, TX 76118, 817–595–0294 (Formerly: Harris Medical Laboratory)

Physicians Reference Laboratory, 7800 West 110th St., Overland Park, KS 66210, 913–338–4070/800–821–3627 (Formerly: Physicians Reference Laboratory Toxicology Laboratory)

Poisonlab, Inc., 7272 Clairemont Mesa Rd., San Diego, CA 92111, 619–279–2600/800–882–7272

Presbyterian Laboratory Services, 1851 East Third Street, Charlotte, NC 28204, 800–473–6640

Puckett Laboratory, 4200 Mamie St., Hattiesburgh, MS 39402, 601–264–3856/800–844–8378

Scientific Testing Laboratories, Inc., 463 Southlake Blvd., Richmond, VA 23236, 804–378–9130

Scott & White Drug Testing Laboratory, 600 S. 25th St., Temple, TX 76504, 800–749–3788

S.E.D. Medical Laboratories, 500 Walter NE, Suite 500, Albuquerque, NM 87102, 505–244–8800

Sierra Nevada Laboratories, Inc., 888 Willow St., Reno, NV 89502, 800–648–5472

SmithKline Beecham Clinical Laboratories, 7600 Tyrone Ave., Van Nuys, CA 91045, 818–376–2520

SmithKline Beecham Clinical Laboratories, 801 East Dixie Ave., Leesburg, FL 34748, 904–787–9006 (Formerly: Doctors & Physicians Laboratory)

SmithKline Beecham Clinical Laboratories, 3175 Presidential Dr., Atlanta, GA 30340, 770–452–1590 (Formerly: SmithKline Bio-Science Laboratories)

SmithKline Beecham Clinical Laboratories, 506 E. State Pkwy., Schaumburg, IL 60173, 708–885–2010 (Formerly: International Toxicology Laboratories)

SmithKline Beecham Clinical Laboratories, 400 Egypt Rd., Norristown, PA 19403, 800–523–5447 (Formerly: SmithKline Bio-Science Laboratories)

SmithKline Beecham Clinical Laboratories, 8000 Sovereign Row, Dallas, TX 75247, 214–638–1301 (Formerly: SmithKline Bio-Science Laboratories)

SmithKline Beecham Clinical Laboratories, 1737 Airport Way South, Suite 200, Seattle, WA 98134, 206–623–8100

South Bend Medical Foundation, Inc., 530 N. Lafayette Blvd., South Bend, IN 46601, 219–234–4176

Southwest Laboratories, 2727 W. Baseline Rd., Suite 6, Tempe, AZ 85283, 602–438–8507

St. Anthony Hospital (Toxicology Laboratory), P.O. Box 205, 1000 N. Lee St., Oklahoma City, OK 73102, 405–272–7052

Toxicology & Drug Monitoring Laboratory, University of Missouri Hospital & Clinics, 301 Business Loop 70 West, Suite 208, Columbia, MO 65203, 314–882–1273

Toxicology Testing Service, Inc., 5426 N.W. 79th Ave., Miami, FL 33166, 305–593–2260

TOXWORX Laboratories, Inc., 6160 Variel Ave., Woodland Hills, CA

91367, 818–226–4373 (Formerly: Laboratory Specialists, Inc.; Abused Drug Laboratories; MedTox Bio-Analytical, a Division of MedTox Laboratories, Inc.)

UNILAB, 18408 Oxnard St., Tarzana, CA 91356, 800–492–0800/818–343–8191 (Formerly: MetWest-BPL Toxicology Laboratory)

The following laboratory is withdrawing from the Program on November 9, 1995: Laboratory Corporation of America, 2540 Empire Dr., Winston-Salem, NC 27103–6710, Outside NC: 919–760–4620/800–334–8627/Inside NC: 800–642–0894 (Formerly: National Health Laboratories Incorporated).

Richard Kopanda,

Acting Executive Officer, Substance Abuse and Mental Health Services Administration.

[FR Doc. 95–27156 Filed 11–1–95; 8:45 am]

BILLING CODE 4160–20–U

National Institutes of Health

National Institute of Mental Health; Notice of Closed Meetings

Pursuant to Section 10(d) of the Federal Advisory Committee Act, as amended (5 U.S.C. Appendix 2), notice is hereby given of the following meetings of the National Institute of Mental Health Special Emphasis Panel:

Agenda/Purpose: To review and evaluate grant applications.

Committee Name: National Institute of Mental Health Special Emphasis Panel.

Date: November 7, 1995.

Time: 1 p.m.

Place: The River Inn, 924 25th Street, N.W., Washington, DC 20037.

Contact Person: Jean G. Noronha, Parklawn Building, Room 9C–18, 5600 Fishers Lane, Rockville, MD 20857, Telephone: 301, 443–1000.

Committee Name: National Institute of Mental Health Special Emphasis Panel.

Date: December 1, 1995.

Time: 8:30 a.m.

Place: Bethesda Ramada Inn, 8400 Wisconsin Avenue, Bethesda, MD 20814.

Contact Person: Phyllis L. Zusman, Parklawn, Room 9C–18, 5600 Fishers Lane, Rockville, MD 20857, Telephone: 301, 443–1340.

The meetings will be closed in accordance with the provisions set forth in sections 552b(c)(4) and 552b(c)(6), Title 5, U.S.C. Applications and/or proposals and the discussions could reveal confidential trade secrets or commercial property such as patentable material and personal information concerning individuals associated with the applications and/or proposals, the disclosure of which would constitute a clearly unwarranted invasion of personal privacy.

This notice is being published less than fifteen days prior to the meetings due to the urgent need to meet timing limitations imposed by the grant review cycle.

(Catalog of Federal Domestic Assistance Program Numbers 93.242, 93.281, 93.282)

Dated: October 30, 1995.

Susan K. Feldman,

Committee Management Officer, NIH.

[FR Doc. 95–27318 Filed 11–1–95; 8:45 am]

BILLING CODE 4140–01–M

Division of Research Grants; Notice of Closed Meeting

Pursuant to Section 10(d) of the Federal Advisory Committee Act, as amended (5 U.S.C. Appendix 2), notice is hereby given of the following Division of Research Grants Special Emphasis Panel (SEP) meeting:

Purpose/Agenda: To review individual grant applications.

Name of SEP: Microbiological and Immunological Sciences.

Date: November 9, 1995.

Time: 2:00 p.m.

Place: NIH, Rockledge 2, Room 4188, Telephone Conference.

Contact Person: Dr. Rita Anand, Scientific Review Administrator, 6701 Rockledge Drive, Room 4188, Bethesda, Maryland 20892, (301) 435–1151.

The meeting will be closed in accordance with the provisions set forth in sections 552b(c)(4) and 552b(c)(6), Title 5, U.S.C. Applications and/or proposals and the discussions could reveal confidential trade secrets or commercial property such as patentable material and personal information concerning individuals associated with the applications and/or proposals, the disclosure of which would constitute a clearly unwarranted invasion of personal privacy.

This notice is being published less than 15 days prior to the meeting due to the urgent need to meet timing limitations imposed by the grant review cycle.

(Catalog of Federal Domestic Assistance Program Nos. 93.306, 93.333, 93.337, 93.393–93.396, 93.837–93.844, 93.846–93.878, 93.892, 93.893, National Institutes of Health, HHS)

Dated: October 30, 1995.

Susan K. Feldman,

Committee Management Officer, NIH.

[FR Doc. 95–27319 Filed 11–1–95; 8:45 am]

BILLING CODE 4140–01–M

DEPARTMENT OF HOUSING AND URBAN DEVELOPMENT

Office of Administration

[Docket No. FR 3959–N–02]

Notice of Submission of Proposed Information Collection to OMB

AGENCY: Office of Administration, HUD.

ACTION: Notice.

SUMMARY: The proposed information collection requirement described below has been submitted to the Office of Management and Budget (OMB) for review, as required by the Paperwork Reduction Act. The Department is soliciting public comments on the subject proposal.

DATES: Comments due date: December 4, 1995.

ADDRESSES: Interested persons are invited to submit comments regarding this proposal. Comments must be received within thirty (30) days from the date of this Notice. Comments should refer to the proposal by name and/or OMB approval number should be sent to: Joseph F. Lackey, Jr., OMB Desk Officer, Office of Management and Budget, Room 10235, New Executive Office Building, Washington, DC 20503.

FOR FURTHER INFORMATION CONTACT: Kay F. Weaver, Reports Management Officer, Department of Housing and Urban Development, 451 7th Street, Southwest, Washington, DC 20410, telephone (202) 708–0050. This is not a toll-free number. Copies of the proposed forms and other available documents submitted to OMB may be obtained from Ms. Weaver.

SUPPLEMENTARY INFORMATION: The Department has submitted the proposal for the collection of information, as described below, to OMB for review, as required by the Paperwork Reduction Act (44 U.S.C. Chapter 35).

The Notice lists the following information: (1) The title of the information collection proposal; (2) the office of the agency to collect the information; (3) the OMB approval number, if applicable; (4) the description of the need for the information and its proposed use; (5) the agency form number, if applicable; (6) what members of the public will be affected by the proposal; (7) how frequently information submissions will be required; (8) an estimate of the total number of hours needed to prepare the information submission including number of respondents, frequency of response, and hours of response; (9) whether the proposal is new, an extension, reinstatement, or revision of an information collection requirement; and (10) the names and telephone numbers of an agency official familiar with the proposal and of the OMB Desk Officer for the Department.

Authority: Section 3507 of the Paperwork Reduction Act of 1995, 44 U.S.C. 35, as amended.

Dated: October 25, 1995.

David S. Cristy,

Director, Information Resources, Management Policy and Management Division.

Title of Proposal: Ounce of Prevention Program (FR 3959).

Office: Community Planning and Development.

OMB Approval Number: None.

Description of the Need for the Information and Its Proposed use: The Ounce of Prevention Grant Program will be used to support local, community based efforts to improve the coordination and integration of youth crime. The grants awarded will also support violence prevention programs and initiatives in those areas.

Form Number: SF–424.

Respondents: Not-for-Profit Institutions and State, Local, or Tribal Government.

Frequency of Submission: On Occasion.

Reporting Burden:

	Number of respondents	×	Frequency of response	×	Hours per response	=	Burden hours
Applications	35		1		64		2,240
Progress Reports	36		1		10		360

Total Estimated Burden hours: 2,600.

Status: New.

Contact: Liz Butler, HUD, (202) 708–2290; Joseph F. Lackey, Jr., OMB, (202) 395–7316.

Dated: October 25, 1995.

[FR Doc. 95–27171 Filed 11–1–95; 8:45 am]

BILLING CODE 4210–01–M

DEPARTMENT OF THE INTERIOR

Fish and Wildlife Service

Notice of Receipt of Applications for Permit

The following applicants have applied for a permit to conduct certain activities with endangered species. This notice is provided pursuant to Section 10(c) of the Endangered Species Act of 1973, as amended (16 U.S.C. 1531, *et seq.*):

PRT–807831

Applicant: Roland Tancrede, Candia, NH

The applicant requests a permit to import the sport-hunted trophy of one male bontebok (*Damaliscus pygarcus dorcas*) culled from the captive herd maintained by Denel (PTY) Ltd., Overberg Test Site, Republic of South Africa, for the purpose of enhancement of the survival of the species.

PRT–803859

Applicant: International Center for Gibbon, Santa Clarita, CA

The applicant requests a permit to import one wild-caught male Silvery gibbon (*Hylobates moloch*) from Zoologischer Garten Berlin AG, Berlin, Germany for the purpose of enhancement of the survival of the species through scientific research and propagation.

PRT–807838

Applicant: Robert Dunn, Sylmar, CA

The applicant requests a permit to purchase in interstate commerce one captive-born female Orangutan (*Pongo pygmaeus*) from Last Chance Farm of Florida for the purpose of enhancement of the survival of the species through conservation education.

PRT–807453

Applicant: Paul Green, Selma, CA

The applicant requests a permit to import the sport-hunted trophy of one male bontebok (*Damaliscus pygargus dorcas*) culled from the captive herd maintained by CONTOUR at Tsolwana Game Reserve, Tarkastad, Ciskei, South Africa, for the purpose of enhancement of the survival of the species.

PRT–807462

Applicant: John Martin, Selma, CA

The applicant requests a permit to import the sport-hunted trophy of one male bontebok (*Damaliscus pygargus dorcas*) culled from the captive herd maintained by CONTOUR at Tsolwana Game Reserve, Tarkastad, Ciskei, South Africa, for the purpose of enhancement of the survival of the species.

PRT–808058

Applicant: Robert Shelton, Winthrop, ME

The applicant requests a permit to import the sport-hunted trophy of one male bontebok (*Damaliscus pygargus dorcas*) culled from the captive herd maintained by Mr. Frank Bowker, ''Thornkloof'', Grahamstown, South Africa, for the purpose of enhancement of the survival of the species.

PRT–808191

Applicant: Gary Leshinsky, Naples, FL

The applicant requests a permit to import one male captive-born Amur leopard (*Panthera pardus orientalis*) from Helsinki Zoo, Helsinki, Finland for the purpose of enhancement of the survival and propagation of the species through captive-breeding.

PRT–808192

Applicant: David Roberts, Madison, WI

The applicant requests a permit to import two male and five female captive-hatched Cabot's tragopan (*Tragopan caboti*) from Ken Smith, Ingersoll, Ontario, Canada for the purpose of enhancement of the species through captive breeding.

PRT–807895

Applicant: Soul of the Wolf, Agoura, CA

Applicant requests a permit to purchase in interstate commerce one captive-born male Siberian tiger (*Panthera tigris altaica*) from Riverglen Tiger Sanctuary, West Fork, Arizona, for the purpose of enhancement of the species through conservation education.

Written data or comments should be submitted to the Director, U.S. Fish and Wildlife Service, Office of Management Authority, 4401 North Fairfax Drive, Room 420(C), Arlington, Virginia 22203 and must be received by the Director within 30 days of the date of this publication.

Documents and other information submitted with these applications are available for review, subject to the requirements of the Privacy Act and Freedom of Information Act, by any party who submits a written request for a copy of such documents to the following office within 30 days of the date of publication of this notice: U.S. Fish and Wildlife Service, Office of Management Authority, 4401 North Fairfax Drive, Room 420(c), Arlington, Virginia 22203. Phone: (703/358–2104); FAX: (703/358–2281).

Dated: October 27, 1995.

Caroline Anderson,

Acting Chief, Branch of Permits Office of Management Authority.

[FR Doc. 95–27146 Filed 11–1–95; 8:45 am]

BILLING CODE 4310–55–P

Bureau of Land Management

[AK–962–1410–00–P]

Alaska Native Claims Selection; Notice for Publication

In accordance with Departmental regulation 43 CFR 2650.7(d), notice is

hereby given that decisions to issue conveyance under the provisions of Secs. 14(h)(8) and 16(b) of the Alaska Native Claims Settlement Act of December 18, 1971, 43 U.S.C. 1601, 1613(h)(8), 1615(b), will be issued to Sealaska Corporation and Kake Tribal Corporation. The lands involved are in the vicinity of Kake, Alaska.

Serial No.	Land description	Approximate acreage
Copper River Meridian, Alaska		
AA–14015	T. 57 S., R. 72 E.	1,180
AA–6982–D ..	T. 57 S., R. 72 E.	400
	T. 57 S., R. 73 E.	25

Containing approximately 1,605 acres.

A notice of the decisions will be published once a week, for four (4) consecutive weeks, in the Juneau Empire. Copies of the decisions may be obtained by contacting the Alaska State Office of the Bureau of Land Management, 222 West Seventh Avenue, #13, Anchorage, Alaska 99513–7599 ((907) 271–5960).

Any party claiming a property interest which is adversely affected by the decisions, an agency of the Federal government, or regional corporation, shall have until December 4, 1995, to file an appeal. However, parties receiving service by certified mail shall have 30 days from the date of receipt to file an appeal. Appeals must be filed in the Bureau of Land Management at the address identified above, where the requirements for filing an appeal may be obtained. Parties who do not file an appeal in accordance with the requirements of 43 CFR Part 4, Subpart E, shall be deemed to have waived their rights.

Gary L. Cunningham,

Land Law Examiner, Branch of Gulf Rim Adjudication.

[FR Doc. 95–27218 Filed 11–1–95; 8:45 am]

BILLING CODE 4310–JA–P

Bureau of Land Management

[AZ–010–96–1430–01–A103; AZA 27081]

Application for Conveyance of Land, Mohave County, AZ; Correction

AGENCY: Bureau of Land Management, Interior.

ACTION: Notice of Correction.

SUMMARY: This correction document will open 400 acres in Mohave County to application under the public land laws and location and entry under the mining and mineral leasing laws and terminate the classification. It will also classify and segregate 270.17 acres in Mohave County from all forms of appropriation under the public land laws, including the general mining and mineral leasing laws, except for conveyance under the R&PP Act, as amended.

EFFECTIVE DATE: June 15, 1995.

FOR FURTHER INFORMATION CONTACT:

Laurie Ford, Realty Specialist, Vermillion Resource Area, Arizona Strip District, phone (801) 628–4491 ext. 271.

SUPPLEMENTARY INFORMATION: In correction document 95–14617 on page 31488 in the issue of Thursday, June 15, 1995, make the following correction: The following described lands were segregated and classified in notice 95–3811 beginning on page 8728 in the issue of Wednesday, February 15, 1995:

Gila and Salt River Meridian, Arizona

T. 40 N., R. 6W.,
Sec. 9, S½NE¼, S½.

The area described contains 400 acres.

Effective June 15, 1995 (date of publication of the correction notice), the lands described above were open to operation of the public laws and location and entry under the United States mining and mineral leasing laws. Effective the same date, the classification was terminated. The following lands were examined and found suitable for classification for conveyance pursuant to Section 3 of the Act of June 14, 1926, as amended by the R&PP Amendment Act of 1988:

Gila and Salt River Meridian, Arizona

T. 40 N., R. 6W.,
Sec. 4, lots 3, 4, S½NW¼;
Sec. 5, lots 1, 2, S½NE¼.

The area described contains 270.17 acres.

Effective June 15, 1995, the lands described above were segregated from appropriation under the public land laws, including the general mining and mineral leasing laws, except for conveyance under the R&PP Act, as amended. Segregation shall terminate upon publication in the Federal Register of an opening order or upon issuance of a patent or deed, whichever occurs first.

Dated: October 24, 1995.

Raymond D. Mapston,

Acting Arizona Strip District Manager.

[FR Doc. 95–2715 Filed 11–1–95; 8:45 am]

BILLING CODE 4310–31–M

[AZ-024–06–1430–1; AZA–29298]

Notice of Realty Action Noncompetitive Sale of Public Lands in Maricopa County, AZ

AGENCY: Bureau of Land Management, Interior.

ACTION: Notice

SUMMARY: This notice provides for the offer of a direct sale of the following described land to Arizona State University (ASU), pursuant to Sections. 203 and 209 of the Federal Land Policy and Management Act (FLPMA) of 1976 (43 U.S.C. 1713, 1719). On March 3, 1992, Recreation and Public Purposes (R&PP) Act (43 U.S.C. 869, *et seq.*) patent 02–92–0015 transferred the land to ASU at no cost for public parking to serve recreational and education facilities in connection with ASU programs only. ASU now plans to enter into a use associated with the Rio Salado Project which is not permitted under the R&PP Act and will pay fair market value for the land to secure unrestricted title.

Gila and Salt River Meridian, Arizona

T. 1 N., R. 4 E.,
Sec. 14, S½S½SW¼NW¼, SE¼NE¼ SE¼SW¼NW¼.

Containing 10.625 acres.

The mineral estate may be conveyed pursuant to Section 209 of FLPMA if it is determined that the lands contain no known mineral value or if mineral development would interfere with surface development and surface development is considered to be a more beneficial use than mineral development.

The deed, when issued, will reserve a right-of-way for ditches and canals to the United States, and will be subject to all valid existing rights of record listed in R&PP patent 02–92–0015.

For a period of 45 days from the date of publication of this notice in the Federal Register, interested parties may submit comments to the District Manager, Phoenix District at the address listed below. In the absence of timely objections, this proposal shall become the final determination of the Department of the Interior.

FOR FURTHER INFORMATION CONTACT:

Carol Kershaw, Phoenix District Office, U.S. Bureau of Land Management, 2015 W. Deer Valley Road., Phoenix, Arizona 85027 (602) 780–8090.

Dated: October 25, 1995.

David J. Miller,

Associate District Manager.

[FR Doc. 95–27245 Filed 11–1–95; 8:45 am]

BILLING CODE 4310–32–P

[AZ–024–06–1430–1; AZA–28907]

Notice of Realty Action Noncompetitive Sale of Public Lands in Maricopa County, AZ

AGENCY: Bureau of Land Management, Interior.

ACTION: Notice.

SUMMARY: This notice modifies classification orders AZA 18069, dated August 31, 1984 and July 7, 1989, and AZA 8642, dated August 11, 1978, and February 15, 1991, to provide for the offer of a noncompetitive commercial lease and eventual direct sale, upon payment of fair market value, of the following described lands to the city of Tempe (Tempe) pursuant to Sections 302, 203 and 209 of the Federal Land Policy and Management Act (FLPMA) of 1976 (43 U.S.C. 1732, 1713, 1719). Tempe's currently held Recreation and Public Purpose (R&PP) Act lease will be replaced with a commercial lease. The commercial lease and classification orders cited above will be terminated upon issuance of patent.

Gila and Salt River Meridian, Arizona

T. 1 N., R. 4 E.,
Sec. 14, NE¼NW¼, N½SW¼NW¼, N½SW¼SW¼NW¼, NE¼NE¼SE¼SW¼NW¼, W½NE¼SE¼SW¼NW¼, NW¼SE¼SW¼NW¼;
Sec. 17 N½, excluding metes and bounds description for approximately 20 acres to remain under withdrawal to Bureau of Reclamation for Salt River Project purposes.

Containing 369.375 acres, more or less.

The mineral estate may be conveyed pursuant to Section 209 of FLPMA if it is determined that the lands contain no known mineral value or if mineral development would interfere with surface development and surface development is considered to be a more beneficial use than mineral development.

The patent, when issued, will reserve a right-of-way for ditches and canals to the United States, and will be subject to all valid existing rights of record, including but not limited to, rights-of-way for the Salt River channelization, Hohokam and East Papago Freeways, and FAA DVORTAC facility. The withdrawal for Bureau of Reclamation's Salt River Project will be modified or terminated prior to the sale.

For a period of 45 days from the date of publication of this notice in the Federal Register, interested parties may submit comments to the District Manager, Phoenix District at the address listed below. In the absence of timely objections, this proposal shall become the final determination of the Department of the Interior.

FOR FURTHER INFORMATION CONTACT: Carol Kershaw, Phoenix District Office, U.S. Bureau of Land Management, 2015 W. Deer Valley Road., Phoenix, Arizona 85027 (602) 780–8090.

Dated: October 25, 1995.

David J. Miller,

Associate District Manager.

[FR Doc. 95–27246 Filed 11–1–95; 8:45 am]

BILLING CODE 4310–32–P

[OR–056–96–1630–00; GPO–0013]

Klamath County, OR; Visitor Restrictions

AGENCY: Bureau of Land Management (BLM), Department of the Interior (DOI), Prineville District.

ACTION: Notice is hereby given the BLM administered lands located in Klamath County, Oregon within Township 23 South, Range 10 East, Sections 8, 9, 15, 17, 21, 25, 26, 27, 34 and 35, and Township 24 South, Range 10 East, Sections 1, 2, 3, 4, 9 and 10 are temporarily closed to all visitor use.

The aforementioned lands located in Klamath County, Oregon, and near the Town of LaPine, Oregon are closed to all visitor use for a period of 120 days, or until a subsequent order can be initiated through the Federal Register. These dates are subject to change as more specific data pertaining to the progress of proposed and actual timber sale activity has been initiated data pertaining to the progress of proposed and actual timber sale activity has been initiated or completed, and all other public safety concerns are addressed. Closure notices will be posted at the Prineville District Office, the U.S. Post Office in LaPine, Oregon, and on the major recognized roads which generally access the area.

The purpose of this closure is to protect the timber resources in the areas described from theft or depredation, as recent law enforcement investigations indicate have occurred in at least two of the aforementioned sections. The BLM is preparing to offer timber sales in all but four (4) of the aforementioned sections, and BLM has an obligation to protect the resource until it's legitimate removal.

Another purpose of this closure is related to concerns for public and employee safety on the aforementioned lands administered by BLM. This closure is in part precipitated by actions and declarations relating to the ownership of public lands in the area, and the unauthorized occupancy of at least one section of BLM land.

Exemptions to this closure will apply to administrative and law enforcement personnel of the BLM, and personnel performing law enforcement, fire fighting, or other emergency duties. This order also exempts all commonly used roadways crossing BLM land, these shall remain open to the public. Land owners, hunters with State of Oregon license and tags (for elk, day use only), and other commercial entities needing to cross, or access, BLM properties covered by this closure in order to carry out their official duties, such as persons working for District Office.

The authority for this closure comes from 43 CFR 9268.3(d)(1)(i) and CFR 8364.1(a) and any person who knowingly and willfully violates any closure order issued under the preceding cities of this title shall be imprisoned for not more than 12 months, or fined not more than $1,000.00, or both.

A more specific location of public lands under this closure can be obtained at the BLM Prineville District Office.

FOR FURTHER INFORMATION CONTACT: Steve Shrader, Law Enforcement Ranger, BLM Prineville District, P.O. Box 550, Prineville, Oregon 97754, telephone number (503) 447–8769.

Dated: October 20, 1995.

James G. Kenna,

Acting District Manager, Prineville District Office.

[FR Doc. 95–27213 Filed 11–1–95; 8:45 am]

BILLING CODE 4310–33–M

National Park Service

Notice of Availability of the Final General Management Plan/ Development Concept Plans/ Environmental Impact Statement for the Timucuan Ecological and Historic Preserve, Florida

SUMMARY: This notice announces the availability of the Final General Management Plan/Development Concept Plans/Environmental Impact Statement (Final GMP/EIS) for the Timucuan Ecological and Historic Preserve. The Final GMP/EIS follows the abbreviated format as described under National Environmental Policy Act regulations at 40 CFR 1503.4(c). The abbreviated format has been used because the changes to the Draft GMP/EIS (distributed February 1995) are minor and confined primarily to factual corrections, which do not modify the analysis. The Draft and Final GMP/EISs, together, describe the final plan, its alternatives, all significant

environmental impacts, and the public comments that have been received and evaluated.

DATES: The Final GMP/EIS will be on public review until December 4. Any review comments must be postmarked no later than December 4, and addressed to the Superintendent, Timucuan Ecological and Historic Preserve, 13165 Mt. Pleasant Road, Jacksonville, Florida 32225.

FOR FURTHER INFORMATION CONTACT: Superintendent, Timucuan Ecological and Historic Preserve, 13165 Mt. Pleasant Road, Jacksonville, Florida 32225, Telephone: (904) 221–5568.

Copies of the Final GMP/EIS are available for review at the preserve. A limited number of copies are available on request from the Superintendent at the above address.

SUPPLEMENTARY INFORMATION: The material contained in the Final GMP/EIS for the Timucuan Ecological and Historic Preserve is to be integrated with the Draft GMP/EIS. This integrated document (i.e., combined Draft and Final GMP/EISs) provides management guidance for concerns of the preserve related to protection of the important ecosystem; impacts on plant and animal species, especially those listed as threatened, endangered, or of special concern; threats to important cultural resources; landownership or land control and land uses; interpretation of the preserve's diverse resources and unique ecology for residents and visitors; and appropriate types and levels of use by humans for residing, working, commuting, recreating, learning, hunting, and fishing.

Four alternative concepts are presented for future management and use of the preserve. The alternatives reflect a range of different strategies for meeting the purposes of the preserve. These strategies differ in the level of commitment required of the citizens of Jacksonville, landowners, State and local governments, the National Park Service, and other Federal agencies to protect preserve resources. The alternatives also differ in the relative priority given to protection and interpretation of a few known cultural resources and the broader setting of the preserve. The degree to which preserve purposes and management can be fulfilled in each alternative is described.

In all alternatives, the National Park Service would make development decisions at NPS-owned sites. At a minimum, modifications would be made at Fort Caroline National Memorial, the Theodore Roosevelt area, and Zephaniah Kingsley Plantation. Development Concept Plans for these areas are presented and discussed. These concept plans focus on visitor experience/public use and physical development needs.

Dated: October 23, 1995.

W. Thomas Brown,

Acting Field Director, Southeast Area.

[FR Doc. 95–27149 Filed 11–1–95; 8:45 am]

BILLING CODE 4310–70–M

National Capital Area, Public Affairs; Notice of Public Meeting

The National Park Service is seeking public comments and suggestions on the planning of the 1995 Christmas Pageant of Peace, which opens December 6 on the Ellipse, south of the White House.

A public meeting will be held at the National Park Service's National Capital Area building in East Potomac Park at 1100 Ohio Drive, SW., Room 234, at 9 a.m., on November 8, 1995. Persons who would like to comment at the meeting should notify the National Park Service by November 3, 1995, by calling the Office of Public Affairs between 9 a.m. and 4 p.m., weekdays at (202) 619–7223. Persons who cannot attend the meeting may send written comments to the Public Affairs Office, National Capital Area, 1100 Ohio Drive, SW., Room 107, Washington, DC 20242. Written comments will be accepted until November 24, 1995.

Dated: October 26, 1995.

Joseph Lawler,

Acting Field Director, National Capital Area.

[FR Doc. 95–27158 Filed 11–1–95; 8:45 am]

BILLING CODE 4310–70–M

INTERSTATE COMMERCE COMMISSION

Availability of Environmental Assessments

Pursuant to 42 U.S.C. 4332, the Commission has prepared and made available environmental assessments for the proceedings listed below. Dates environmental assessments are available are listed below for each individual proceeding.

To obtain copies of these environmental assessments contact Ms. Tawanna Glover-Sanders, Interstate Commerce Commission, Section of Environmental Analysis, Room 3219, Washington, DC 20423, (202) 927–6203.

Comments on the following assessment are due 15 days after the date of availability:

AB–167 (Sub-No. 1152X), Consolidated Rail Corporation—Abandonment Exemption—in Cook County, Illinois. EA available 10/23/95.

AB–6 (Sub-No. 375X), Abandonment of a line of railroad between BN MP 6.92 and BN MP 8.19 and the Cascade Pole Spur in and near Arlington in Shohomish County, WA. EA available 10/23/95.

AB–457X, RLTD Railway Corporation—Notice of Exemption—Abandonment fom Renie's Point to Northport, in Leelanau County, MI. EA available 10/24/95.

AB–290 (Sub-No. 177X), Norfolk Southern Railway Company—Abandonment—in Pittsylvania County, Virginia. EA available 10/24/95.

AB–55 (Sub-No. 514X), CSX Transportation, Inc.—Abandonment—in Monroe and Owen Counties, Indiana. EA available 10/27/95.

AB–32 (Sub-No. 64X), Boston and Maine Corporation—Abandonment and Discontinuance of Service—Renssalaer County, NY. EA available 10/27/95.

AB–290 (Sub-No. 176X), Norfolk and Western Railway Company—Abandonment—at Des Moines, IA. EA available 10/27/95.

Comments on the following assessment are due 30 days after the date of availability:

AB–455X, Ashley, Drew and Northern Railway Company—Abandonment and Discontinuance of Service. EA available 10/24/95.

Vernon A. Williams,

Secretary.

[FR Doc. 95–27196 Filed 11–1–95; 8:45 am]

BILLING CODE 7035–01–P

DEPARTMENT OF JUSTICE

Antitrust Division

United States v. Reuter Recycling of Florida, Inc. and Waste Management Inc. of Florida; Proposed Final Judgment and Competitive Impact Statement

Notice is hereby given pursuant to the Antitrust Procedures and Penalties Act, 15 U.S.C. § 16(b)–(h), that a proposed Final Consent Judgment, Stipulation, and Competitive Impact Statement have been filed with the United States District Court for the District of Columbia, in a civil antitrust case, *United States* v. *Reuter Recycling of Florida, Inc. and Waste Management Inc. of Florida,* Civ. No. 1:95CV01982.

On October 20, 1995, the United States and the State of Florida filed a Complaint seeking to enjoin a

transaction by which Waste Management Inc. of Florida agreed to acquire Reuter. Waste Management and its affiliates constitute one of only two private competitors in the market for solid waste disposal services in Broward and Dade Counties, Florida. The other private competitor—Chambers Waste Systems of Florida, Inc.—can only effectively compete in that market because it has access to a transfer station owned by Reuter. Waste Management would acquire that transfer station in the acquisition. The Complaint alleged that the proposed acquisition may substantially lessen competition in the municipal solid waste disposal services market in Dade and Broward Counties, Florida, in violation of Section 7 of the Clayton Act, 15 U.S.C. 18.

The proposed Final Judgment requires defendants to give Chambers unimpeded access to the Reuter Transfer Station for up to five years. It also requires defendants to make certain real estate available to Chambers for up to five years upon which Chambers may construct its own transfer station. A Competitive Impact Statement filed by the United States describes the Complaint, the proposed Final Judgment, and remedies available to private litigants.

The Public is invited to comment to the Justice Department and to the Court. Comments should be addressed to Anthony V. Nanni, Chief, Litigation I Section, U.S. Department of Justice, Antitrust Division, 1401 H Street N.W., Room 4000, Washington, D.C. 20530 (telephone: (202) 307–5777). Comments must be received within sixty days.

Copies of the Complaint, proposed Final Judgment, and Competitive Impact Statement are available for inspection in Room 207 of the U.S. Department of Justice, Antitrust Division, 325 7th Street, N.W., Washington, D.C. 20530 (telephone: (202) 514–2481). Copies of these materials may be obtained upon request and payment of a copying fee.

Constance K. Robinson,

Director of Operations.

In the United States District Court for the District of Columbia

In the matter of: UNITED STATES OF AMERICA, and STATE OF FLORIDA, by and through its Attorney General, Plaintiffs, v. REUTER RECYCLING OF FLORIDA, INC., and WASTE MANAGEMENT INC. OF FLORIDA, Defendants. Civil Action No.: 1:95CV01982; Filed: 10/20/95; Judge Royce C. Lambert.

Complaint

The United States of America, acting under the direction of the Attorney General of the United States, and the State of Florida, acting under the direction of the Attorney General of the State of Florida, plaintiffs, bring this civil action to obtain equitable and other relief against the defendants named and allege as follows:

1. The United States and the State of Florida bring this antitrust case to prevent the proposed acquisition by Waste Management Inc. of Florida (''WMF'') of Reuter Recycling of Florida, Inc. (''Reuter''). The acquisition will reduce the entities competing for municipal solid waste disposal service in the relevant geographic market from three to two and will substantially increase concentration among municipal solid waste disposal entities in that market.

2. If this transaction is not blocked, consumers will be harmed by having to pay significant and immediate price increases for municipal solid waste disposal service, as the history in the market indicates. After Chambers Waste Systems of Florida, Inc. (''Chambers'') entered the relevant geographic market by using a transfer station owned by Reuter, prices for municipal solid waste disposal service dropped substantially. Consequently, this transaction must be enjoined to protect consumers.

I

Jurisdiction and Venue

3. This action is filed under Section 15 of the Clayton Act, 15 U.S.C. 25, and 15 U.S.C. 26, to prevent and to restrain the violation by the defendants, as hereinafter alleged, of Section 7 of the Clayton Act, 15 U.S.C. 18.

4. Reuter and WMF are engaged in interstate commerce and in activities substantially affecting interstate commerce. The Court has jurisdiction over this action, over the parties, and venue is appropriate in this District, pursuant to 15 U.S.C. 22 and 28 U.S.C. §§ 1391 and 1337, since both defendants consent to personal jurisdiction in this proceeding.

II

Defendants

5. WMF is a Florida corporation with its principal offices in Pompano Beach, Florida. WMF provides municipal solid waste disposal service within the State of Florida. In 1994, WMF reported total revenues of over $245 million.

6. Reuter is a Florida corporation with its principal offices in Pembroke Pines, Florida. Reuter provides municipal solid waste disposal service within the State of Florida through the Transfer Station Agreement with Chambers. In 1994, Reuter reported total revenues in excess of $13 million.

IV

Trade and Commerce

7. Municipal solid waste is nonhazardous waste collected from households, and commercial and industrial establishments. It includes waste that is putrescible (such as garbage) and compactible but does not include construction and demolition debris. The waste is generally collected by municipalities or private haulers with collection trucks. When the collection truck is full, it must leave its collection route and travel to a municipal solid waste disposal site where the truck is emptied.

8. Municipal solid waste disposal service is the final disposal of municipal solid waste in a landfill or a facility that incinerates that waste. Municipal solid waste can be transported to a relatively distant final disposal site by using a transfer station. At a transfer station, municipal solid waste is received from municipal and private haulers. Generally, the waste is combined, further compacted, and then loaded into large tractor trailer trucks. These tractor trailer trucks can economically transport that waste a considerably longer distance to a final disposal site than can collection trucks.

9. The provision of municipal solid waster disposal service is a relevant product for purposes of analyzing this acquisition under the Clayton Act. There is no practical substitute for municipal solid waste disposal service to which a significant number of customers would switch in response to a small but significant, nontransitory increase in price imposed by all providers of municipal solid waste disposal service.

10. State and federal laws restrict the facilities that may accept municipal solid waste for final disposal. Municipal solid waste disposal service is provided to consumers in Dade and Broward Counties through facilities owned or operated by Defendant WMF, directly or through its affiliates, in Broward County, Florida and in Dade County, Florida, owned or operated by Dade County, Florida in Dade; and, owned by Chambers in Okeechobee County, Florida, about 100 miles north of Dade. Chambers transports municipal solid waste to its Okeechobee landfill from the Reuter transfer station in southern Broward pursuant to an agreement between Reuter and Chambers dated July 14, 1993 (''Transfer Station Agreement''). The Reuter transfer station is currently the only means by which Chambers can transport municipal solid waste from consumers in Dade and

Broward Counties to its landfill in Okeechobee County.

11. The relevant geographic market for purposes of analyzing this transaction is Broward and Dade Counties, Florida. The above facilities are the only significant disposal sites for Broward and Dade municipal solid waste. County-owned facilities in St. Lucie, Martin and Palm Beach Counties are not alternative municipal solid waste disposal sites for Dade and Broward Counties, since the distance from Dade and Broward Counties is too great to be economically travelled by collection trucks. In addition, these facilities do not generally take out-of-county waste and are much higher priced alternatives than the Okeechobee landfill for waste from the relevant geographic market. It is not economically efficient for municipal solid waste haulers to transport that waste long distances in collection trucks to a municipal solid waste disposal site. Consequently, haulers generally transport the waste to nearby landfills or incinerators or transfer stations that enable waste economically to be hauled to more distant disposal sites. Therefore, other municipal solid waste disposal sites outside the area are not substitutes for service provided by the facilities described in paragraph 10.

12. Defendant WMF and Chambers compete with each other and with Dade to provide municipal solid waste disposal service to municipalities and private haulers in the relevant geographic market. WMF, Chambers, and Dade bid against one another for the right to dispose of municipal solid waste in that area. The vast majority of this waste is generated in Dade. Chambers is currently able to compete for this waste only because it has access to the transfer station owned by Defendant Reuter in southern Broward County, Florida pursuant to the Transfer Station Agreement.

13. The acquisition of Reuter by WMF will have the effect of excluding Chambers from its only current means of economically providing municipal solid waste disposal service in Broward and Dade Counties in competition with WMF and Dade and will therefore reduce the firms competing for municipal solid waste disposal service there from three to two. Therefore, the acquisition of Reuter by WMF will substantially increase concentration among municipal solid waste disposal entities in the relevant geographic market. Using a measure of market concentration called the HHI, defined and explained in Appendix A, the acquisition of Reuter by WMF would increase the HHI by about 1,700 to about 5,000.

14. The only significant competitor of WMF that would remain after the acquisition is Dade County. Rivalry between WMF and Dade County alone will not prevent prices from rising, because Chambers provides a substantial competitive check on WMF's and Dade County's individual ability to set prices for their services. This is evidenced by the substantial drop in municipal solid waste disposal service prices that followed Chambers' entry into the market.

15. There are substantial barriers to entry into municipal solid waste disposal service in the relevant geographic market. The siting, permitting and construction of a municipal solid waste landlfill or incinerator within or near Dade will take well in excess of two years, if such a facility is permitted to be constructed at all. Furthermore, the zoning, siting, permitting and construction of a municipal solid waste transfer station in a commercially and economically feasible location to receive municipal solid waste from the relevant geographic market is likely to take more than two years.

V

Violation Alleged

16. On June 1, 1995, defendant WMF and the parent of Reuter signed a purchase agreement providing for the purchase by WMF of all of the outstanding common stock of Reuter.

17. The effect of the acquisition of Reuter by WMF may be substantially to lessen competition in the aforesaid trade and commerce in violation of Section 7 of the Clayton Act in the following ways, among others:

(a) Actual competition and potential competition between WMF and Chambers in municipal solid waste disposal service in the above-described geographic market will be eliminated; and

(b) Actual and potential competition generally in municipal solid waste disposal service in that geographic market may be substantially lessened.

Prayer

WHEREFORE, plaintiffs pray,

1. That the proposed acquisition of the common stock of Reuter by WMF be adjudged to be in violation of Section 7 of the Clayton Act;

2. That the defendants and all persons acting on their behalf be permanently enjoined from carrying out the acquisition of the common stock of Reuter by WMF or any similar agreement, understanding, or plan.

3. That the plaintiffs have such other and further relief as the Court may deem just and proper; and

4. That plaintiffs recover the costs of this action.

Dated: This 20th day of October, 1995.

FOR PLAINTIFF UNITED STATES OF AMERICA:

Anne K. Bingaman,

Assistant Attorney General

Lawrence R. Fullerton,

Deputy Assistant Attorney General

Constance K. Robinson,

Director of Operations

Charles E. Biggio,

Senior Counsel

Anthony V. Nanni,

Chief, Litigation I Section

Willie L. Hudgins, Jr.

Attorneys, U.S. Department of Justice, Antitrust Division.

Nancy H. McMillen,

Attorney, U.S. Department of Justice, Antitrust Division, 1401 H Street, N.W., Suite 4000, Washington, D.C. 20530, 202/307–5777

For Plaintiff State of Florida:

Robert A. Butterworth,

Attorney General.

Patricia A. Conners,

Assistant Attorney General.

Lizabeth A. Leeds,

Assistant Attorney General.

H. Edward Burgess, Jr.,

Assistant Attorney General, Office of Attorney General, State of Florida, The Capitol, Tallahassee, FL 32399–1050, (904) 488–9105.

Appendix A

''HHI'' means the Herfindahl-Hirschman Index, a commonly accepted measure of market concentration calculated by squaring the market share of each firm competing in the market and then summing the resulting numbers. For example, for a market consisting of four firms with shares of 30, 30, 20, and 20 percent, respectively, the HHI is 2600 (30 squared + 30 squared + 20 squared + 20 squared = 2600). The HHI, which takes into account the relative size and distribution of the firms in a market, ranges from virtually zero to 10,000. The index approaches zero when a market consists of a large number of firms of relatively equal size. The index increases as the number of firms in the market decreases and may also increase as the disparity in size between the leading firms and the remaining firms increases. Thus, a market of two firms with shares of 60 and 40 percent would have an HHI of 5200 (60 squared + 40 squared = 3600 + 1600 = 5200).

The Department of Justice and Federal Trade Commission 1992 Horizontal Merger Guidelines consider that markets in which the HHI is between 1000 and 1800 are moderately concentrated and those in which the HHI is in excess of 1800 points are concentrated. Transactions that increase the HHI by more than 100 points in moderately concentrated and concentrated markets

presumptively raise antitrust concerns under the Merger Guidelines.

United States District Court for the District of Columbia

In the matter of: UNITED STATES OF AMERICA, and STATE OF FLORIDA, by and through its Attorney General, Plaintiffs, v. REUTER RECYCLING OF FLORIDA, INC., and WASTE MANAGEMENT INC. OF FLORIDA, Defendants. Civil Action No.: 1:95CV01982, Filed: 10/20/95.

Stipulation

It is stipulated by and between the undersigned parties, by their respective attorneys, that:

1. The Court has jurisdiction over the subject matter of this action and over each of the parties hereto, and venue of this action is proper in the District of Columbia.

2. The parties consent that a Final Judgment in the form hereto attached may be filed and entered by the Court, upon the motion of any party or upon the Court's own motion, at any time after compliance with the requirements of the Antitrust Procedures and Penalties Act (15 U.S.C. 16 (b)–(h)), and without further notice to any party or other proceedings, provided that Plaintiffs have not withdrawn their consent, which they may do at any time before the entry of the proposed Final Judgment by serving notice thereof on the Defendants and by filing that notice with the Court; and

3. The parties shall abide by and comply with the provisions of the proposed Final Judgment pending entry of the Final Judgment, and shall, from the date of the filing of this Stipulation, comply with all the terms and provisions thereof as though the same were in full force and effect as an order of the Court.

4. This Stipulation shall become effective when, if and only if, defendant Waste Management Inc. of Florida acquires a majority of the outstanding shares of defendant Reuter Recycling of Florida, Inc. If the Plaintiffs withdraw their consent or if the proposed Final Judgment is not entered pursuant to this Stipulation, this Stipulation shall be of no effect whatsoever, and the making of this Stipulation shall be without prejudice to any party in this or in any other proceeding.

Dated this 20th day of October, 1995.

Respectfully submitted,

For the Plaintiff the United States of America:

Anne K. Bingaman,

Assistant Attorney General, Antitrust Division, U.S. Department of Justice.

Lawrence R. Fullerton,

Deputy Assistant Attorney General.

Constance K. Robinson,

Director of Operations.

Charles E. Biggio,

Senior Counsel.

Anthony V. Nanni,

Chief, Litigation I Section.

Willie L. Hudgins, Jr.,

Attorney, U.S. Department of Justice, Antitrust Division.

Nancy H. McMillen,

Attorney, U.S. Department of Justice, Antitrust Division, City Center Building, Suite 4000, 1401 H Street, NW., Washington, DC 20530, 202/307–5777.

For Plaintiff State of Florida:

Robert A. Butterworth,

Attorney General.

Patricia A. Conners,

Assistant Attorney General.

Lizabeth A. Leeds,

Assistant Attorney General.

H. Edward Burgess, Jr.,

Assistant Attorney General, Office of Attorney General, State of Florida, The Capitol, Tallahassee, Florida 32399–1050, (904) 488–9105.

For the Defendant Reuter Recycling of Florida, Inc.:

John H. Korns,

(D.C. Bar No. 142745), Oppenheimer, Wolff & Donnelly, 1020 19th Street, N.W., Suite 400, Washington, D.C. 20036, (202) 293–6300.

For the Defendant Waste Management Inc. of Florida:

Michael Sennett,

Bell, Boyd & Lloyd, Three First National Plaza, Chicago, Illinois 60602, (312) 372–1121.

Andrew N. Cook,

(D.C. Bar No. 416199), Bell, Boyd & Lloyd, 1615 L Street, N.W., Washington, D.C. 20036, (202) 466–6300.

In The United States District Court for The District of Columbia

In the matter of: UNITED STATES OF AMERICA, and STATE OF FLORIDA, by and through its Attorney General, Plaintiffs, v. REUTER RECYCLING OF FLORIDA, INC., and WASTE MANAGEMENT INC. OF FLORIDA, Defendants. Civil Action No.: 1:95CV01982; Filed: 10/20/95.

Final Judgment

WHEREAS Plaintiffs, United States of America (hereinafter ''United States'') and the State of Florida (hereinafter ''Florida''), having filed their Complaint in this action on October 20, 1995, and Plaintiffs and Defendants, by their respective attorneys, having consented to the entry of this Final Judgment without trial or adjudication of any issue of fact or law; and without this Final Judgment constituting any evidence or admission by any party with respect to any issue of fact or law;

AND WHEREAS, Defendants have agreed to be bound by the provisions of this Final Judgment pending its approval by the Court;

AND WHEREAS, the Plaintiffs intend Defendants to be required to preserve competition for solid waste disposal by honoring certain contracts, as amended, and by giving to a competitor an option to purchase real property capable of being used as a municipal solid waste transfer station to preserve competition in solid waste disposal in Dade and Broward Counties, Florida, now and in the future, and, by permitting a competitor to preserve its ability to compete for and to have access to capacity for sufficient volumes of municipal solid waste to remain a viable solid waste disposal competitor while it seeks another transfer station site;

AND WHEREAS, Defendants have represented that the contract changes and the option agreement to purchase real estate described below can and will be made and honored and that Defendants will later raise no claims of hardship or difficulty as grounds for asking the Court to modify any of the provisions contained below;

NOW, THEREFORE, before any testimony is taken, and without trial or adjudication of any issue of fact or law, and upon consent of the parties, it is hereby

ORDERED, ADJUDGED AND DECREED as follows:

I

Jurisdiction

This Court has jurisdiction of the subject matter of this action and over each of the parties hereto. The Complaint states a claim upon which relief may be granted against Defendants under Section 7 of the Clayton Act, as amended, 15 U.S.C. 18.

II

Definitions

As used in this Final Judgment:

(A) ''Broward'' means Broward County, Florida.

(B) ''Chambers'' means Chambers Waste Systems of Florida, Inc., a subsidiary of USA Waste Services, Inc. Chambers is a corporation organized and existing under the laws of the State of Florida with its principal offices in Okeechobee, Florida.

(C) ''Dade'' means Dade County, Florida.

(D) ''Defendants'' means Reuter and WMF, as hereinafter defined.

(E) ''Reuter'' means defendant Reuter Recycling of Florida, Inc. Reuter is a corporation organized and existing under the laws of the State of Florida with its principal offices in Pembroke Pines, Florida.

(F) ''Solid waste disposal service'' means the final disposal of municipal solid waste, generally in a landfill or incineration facility.

(G) ''Transfer Station Agreement'' means the agreement between Reuter and Chambers dated as of July 14, 1993 pursuant to which Reuter, among other things, accepts for transfer certain solid waste material delivered by Chambers or Chambers' subcontractors. A copy of the Transfer Station Agreement is attached as Exhibit A.

(H) ''Amendment to Transfer Station Agreement'' means the Agreement between Reuter and Chambers dated October 20, 1995 modifying the Transfer Station Agreement. A copy of the Amendment to Transfer Station Agreement is attached as Exhibit B.

(I) ''Option Agreement'' means the Agreement between Reuter and Chambers dated October 20, 1995. A copy of the Option Agreement is attached as Exhibit C.

(J) ''WMF'' means defendant Waste Management Inc. of Florida, a subsidiary of Waste Management, Inc. WMF is a corporation organized and existing under the laws of the State of Florida with its principal offices in Pompano Beach, Florida.

(K) ''Acquisition'' means the acquisition of the majority of the outstanding stock of Reuter by WMF.

(L) ''Reuter Transfer Station'' means the facility owned by Reuter and located at 2079 Pembroke Road, Pembroke Pines, FL which currently, among other things, accepts for transfer certain solid waste material delivered by Chambers or Chambers' subcontractors and also accepts waste from the cities of Pompano Beach, Pembroke Pines, Dania, and Hallandale, FL.

III

Applicability

This Final Judgment applies to Defendants and to their officers, directors, managers, agents, employees, successors, assigns, affiliates, parents and subsidiaries, and to all other persons in active concert or participation with any of them who shall have received actual notice of this Final Judgment by personal service or otherwise. Nothing contained in this Final Judgment is or has been created for the benefit of any third party, and nothing herein shall be construed to provide any rights to any third party.

IV

Entry Into and Compliance With Agreements

On or before the date the Acquisition is consummated, Reuter shall enter into the Amendment to Transfer Station Agreement and the Option Agreement. Defendants shall be bound by the terms of the Transfer Station Agreement, as modified by the Amendment to Transfer Station Agreement, and the Option Agreement. Defendants shall not convey to any person other than Chambers, the property subject to the Option Agreement, prior to the later of July 14, 1998 or any extension of that Option Agreement, except as provided in the Option Agreement. Defendants shall not exercise their right to replace Chambers as the Facility operator under Paragraph 3f of the Amendment to Transfer Station Agreement without the prior approval of the United States, in consultation with Florida.

V

Termination of the Agreements

In the event Chambers has secured the right to use and is using another transfer station capable of serving Broward or Dade Counties prior to July 14, 1998, Defendants may notify Plaintiffs of that fact and Defendants may request in writing that they be relieved of the obligation to extend the term of the Transfer Station Agreement as set forth in Paragraph 2 of the Amendment to Transfer Station Agreement, and of the obligation to convey property under the Option Agreement. The United States may grant one or both of Defendants' requests if it determines, in its sole discretion after consultation with Florida, that Chambers can effectively compete in the relevant markets without access to the Reuter Transfer Station or without access to the property subject to the Option Agreement.

VI

Interim Preservation of Viable Competition

(A) Defendants shall not enter into any contract or contracts, with any firm listed on Exhibit D, having a term in excess of one (1) year, or having multiple consecutive one (1) year terms, for the disposal of solid waste, where any such waste would be transported through the Reuter Transfer Station for disposal elsewhere. Exhibit D is a list of the customers of Chambers for whom Chambers uses the Reuter Transfer Station to enable it to dispose of solid waste as of the date this Final Judgment is filed (''Chambers Customers'').

(B) Defendants' obligations under Paragraph VI.A. shall terminate upon the United States providing Defendants with written notice, following application by Defendants, that the United States, in its sole discretion after consultation with Florida, has determined that Chambers can compete effectively in the relevant market if Defendants are permitted to contract with Chambers' Customers as proscribed in Paragraph VI.A. In any event, Paragraph VI.A. shall terminate on the date the Transfer Station Agreement, as amended by the Amendment to the Transfer Station Agreement, terminates.

(C) Nothing herein shall preclude Defendants from contracting with any of the Chambers' Customers for a period of one (1) year or less; or, for a period in excess of one (1) year where that customer's solid waste is not transported by Defendants, directly or indirectly, through the Reuter Transfer Station.

VII

Defendants' Obligations of Noninterference and Assistance

In the event that Chambers seeks to permit a new transfer station or seeks access to a new or existing transfer station other than the Reuter Transfer Station, Defendants shall take no action to protest, lobby against, object to, or otherwise impede, directly or indirectly, any attempts by Chambers to lease, purchase, site, obtain appropriate zoning for, obtain permits and any and all other governmental approvals for a solid waste transfer station capable of serving Broward or Dade, nor shall Defendants provide financing or other assistance to any person who does so. Furthermore, from the effective date of the Option Agreement through the termination date of that Agreement, including any extensions thereof, Defendants will cooperate with Chambers' efforts to obtain any necessary government approvals on the property subject to the Option Agreement.

Notwithstanding the provisions of this Final Judgment, Defendants may bid on and enter into contracts with municipal or governmental entities for the provision or use of transfer station facilities in Dade and Broward.

VIII

Acquisition of the Option Property

If the option to purchase under the Option Agreement is exercised, Defendants shall not, without prior

written consent of the United States, after consultation with Florida, re-acquire any of the property conveyed pursuant to the Option Agreement.

IX

Reporting and Plaintiffs' Access

(A) To determine or secure compliance with this Final Judgment, duly authorized representatives of the Plaintiffs shall, upon written request of the Assistant Attorney General in charge of the Antitrust Division or the Florida Attorney General or his duly authorized representative, respectively, on reasonable notice given to Defendants at their principal offices, subject to any lawful privilege, be permitted:

(1) Access during normal office hours to inspect and copy all books, ledgers, accounts, correspondence, memoranda and other documents and records in the possession, custody, or control of Defendants, which may have counsel present, relating to any matters contained in this Final Judgment.

(2) Subject to the reasonable convenience of Defendants and without restraint or interference from them, to interview officers, employees, or agents of Defendants, who may have counsel present, regarding any matters contained in this Final Judgment.

(B) Upon written request of the Assistant Attorney General in charge of the Antitrust Division or the Florida Attorney General or his duly authorized representative, on reasonable notice given to Defendants at their principal offices, subject to any lawful privilege, Defendants shall submit such written reports, under oath if requested, with respect to any matters contained in this Final Judgment.

(C) No information or documents obtained by the means provided by this Section shall be divulged by the Plaintiffs to any person other than a duly authorized representative of the Executive Branch of the United States government or of the State of Florida, except in the course of legal proceedings to which the United States is a party, or for the purpose of securing compliance with this Final Judgment, or as otherwise required by law.

(D) If at the time information or documents are furnished by Defendants to Plaintiffs, Defendants represent and identify in writing the materials in any such information or document to which a claim of protection may be asserted under Rule 26(c)(7) of the Federal Rules of Civil Procedure, and Defendants mark each pertinent page of such material ''Subject to claim of protection under Rule 26(c)(7) of the Federal Rules of Civil Procedure,'' then ten days notice shall be given by Plaintiffs to Defendants prior to divulging such material in any legal proceeding (other than a grand jury proceeding) to which Defendants are not a party.

X

Further Elements of Judgment

(A) This Final Judgment shall expire on the tenth anniversary of the date of its entry.

(B) Jurisdiction is retained by this Court over this action and the parties thereto for the purpose of enabling any of the parties thereto to apply to this Court at any time for further orders and directions as may be necessary or appropriate to carry out or construe this Final Judgment, to modify or terminate any of its provisions, to enforce compliance, and to punish violations of its provisions.

XI

Public Interest

Entry of this Final Judgment is in the public interest.

Entered: _____

Court approval subject to procedures of Antitrust Procedures and Penalties Act, 15 U.S.C. 16.

_____

United States District Judge

Note: Exhibits A, B, C & D will not be published in the Federal Register but a copy can be obtained from the Department of Justice, Antitrust Division's, Legal Procedures Office at (202) 514–2481.

United States District Court for the District of Columbia

In the matter of: UNITED STATES OF AMERICA, and STATE OF FLORIDA, by and through its Attorney General Plaintiffs, v. REUTER RECYCLING OF FLORIDA, INC. and WASTE MANAGEMENT INC. OF FLORIDA, Defendants. CIVIL ACTION NO.: 1:95CV01982; Filed: 10/20/95.

Competitive Impact Statement

The United States, pursuant to Section 2(b) of the Antitrust Procedures and Penalties Act (''APPA''), 15 U.S.C. 16(b)–(h), files this Competitive Impact Statement relating to the proposed Final Judgment submitted for entry in this civil antitrust proceeding.

I

Nature and Purpose of the Proceeding

The United States filed a civil antitrust Complaint on October 20, 1995, alleging that the proposed acquisition of Reuter Recycling of Florida, Inc. (''Reuter'') by Waste Management Inc. of Florida (''WMF'') would violate Section 7 of the Clayton Act, 15 U.S.C. 18. The State of Florida, by and through its Attorney General, is a co-plaintiff with the United States in this action.[1] WMF and Reuter are two of only three entities that provide municipal solid waste disposal service in Broward and Dade Counties, Florida.

The Complaint alleges that the combination of these two competitors would substantially lessen competition in solid waste disposal service in Dade and Broward Counties, Florida. The prayer for relief seeks: (1) A judgment that the proposed acquisition would violate section 7 of the Clayton Act; and (2) a permanent injunction preventing WMF from acquiring the stock of Reuter. At the same time that suit was filed, a proposed Final Judgment was filed that was designed to eliminate the anticompetitive effects of the acquisition. Also filed was a Stipulation under which the parties consented to the entry of the proposed Final Judgment.

The proposed Final Judgment preserves competition that would have existed absent the acquisition by requiring defendants to give Chambers unimpeded access to the Reuter Transfer Station for up to five years from today. It also requires defendants to make certain real estate available to Chambers for up to five years from today upon which Chambers may construct its own transfer station.

The United States, its co-plaintiff, and Defendants have stipulated that the proposed Final Judgment may be entered after compliance with the APPA. Entry of the proposed Final Judgment would terminate the action, except that the Court would retain jurisdiction to construe, modify, or enforce the provisions of the proposed Final Judgment and to punish violations thereof.

II

Description of the Events Giving Rise to the Alleged Violation

A. The Defendants and the Proposed Transaction

WMF, based in Pompano Beach, Florida, is an indirect wholly-owned subsidiary of WMX Technologies, Inc., the world's largest solid waste hauling and disposal company, with operations throughout the United States. In 1994, WMF reported total revenues of over $245 million.

Reuter, based in Pembroke Pines, Florida, is a subsidiary of Reuter Manufacturing, Inc., formerly known as Green Isle Environmental Services, Inc. Reuter operates a municipal solid waste transfer station and does some recycling

[1] The APPA obligates only the United States to file a Competitive Impact Statement.

at a facility in Broward County, Florida. In 1994, Reuter reported total revenues of over $13 million.

On June 1, 1995, WMF entered into an agreement to purchase from Green Isle Environmental Services, Inc. all of the outstanding common stock of Reuter for about $18 million.

B. The Solid Waste Disposal Industry

Municipal solid waste is nonhazardous waste collected from households and commercial and industrial establishments. It includes waste that is putrescible (such as garbage) and compactible, but does not include construction and demolition debris. Municipal solid waste is collected by municipalities or private haulers either with collection trucks, that compact the waste in the truck, or roll-off trucks. When the collection truck is full, it leaves its collection route and travels to a municipal solid waste disposal site where the truck is emptied. Roll-off trucks pick up large containers and take them to the disposal site or transfer station individually.

Solid waste disposal service is the final disposal of municipal solid waste, generally in a landfill or a facility that incinerates that waste. It is generally not efficient to transport municipal solid waste in collection trucks long distances. to disposal sites. Municipal solid waste can be transported to a relatively distant final disposal site by using a transfer station. Municipal solid waste accepted at a transfer station is combined, further compacted, and then loaded into large tractor trailer trucks. These tractor trailer trucks, which can transport a volume of waste equal two to four times that of collection trucks, can economically transport that waste a considerably longer distance to a disposal site than can collection trucks.

Because of its unique disposal function, a small but significant increase in the price of municipal solid waste disposal service by all suppliers would not be rendered unprofitable by consumers substituting to any other type of disposal service. State and federal laws restrict the facilities that may accept municipal solid waste for final disposal. In Florida, it is restricted to Class I and Class II landfills [2] and to facilities that incinerate the waste. Disposal of municipal solid waste, as compared to disposal of construction and demolition or other types of debris, accounts for a large percentage of total disposal service revenues.

C. Competition in the Relevant Market

WMF and Chambers Waste Systems of Florida, Inc. (''Chambers''), through its use of the Reuter Facility pursuant to an agreement between Chambers and Reuter, compete directly in providing municipal solid waste disposal service in Broward and Dade Counties.

WMF, through its affiliates, owns or operates a Class I landfill and two incineration facilities [3] in Broward County that accept and dispose of municipal solid waste. It also owns a Class I landfill in Dade County that disposes of such waste. Dade County owns or operates several Class I landfills and one incineration facility in Dade County.

Chambers owns a Class I landfill located in Okeechobee County, Florida, about 100 miles north of Dade County, that accepts and disposes of municipal solid waste from Dade and Broward Counties. Pursuant to a contract containing an initial term of five years with Reuter, dated July 14, 1993 (''Transfer Station Agreement''), Chambers currently transports municipal solid waste to its Okeechobee landfill from the transfer station owned by Reuter, which is located in southwestern Broward County.

D. Nature of Competition

Prior to July 1993 WMF and Dade County were the only significant suppliers of municipal solid waste disposal service in Dade and Broward Counties. When Chambers entered the market, prices dropped substantially. Chambers, therefore, has provided a significant competitive constraint on pricing in the market. WMF and Chambers compete for municipal solid waste disposal brought to their facilities on a short-term basis absent any contract and for contracts with municipalities and private haulers in the area that are not at the time committed to a disposal site pursuant to a long-term contract. Almost all of the solid waste collected in Broward County is under long-term contracts. Consequently, the vast majority of the customers for which WMF, Dade County, and Chambers currently compete generate municipal solid waste in Dade County, Florida. Because its solid waste disposal site is over 100 miles north of Dade County, Chambers is able to compete for these customers in Dade County only because it has access to the transfer station currently owned by Reuter—the transfer station that WMF will control if it acquires the stock of Reuter.

The relevant geographic market for purposes of analyzing this transaction is Broward and Dade Counties, Florida. The WMF Class I landfills and incineration facilities, the Dade County incinerator and Class I landfills, and Chambers' Okeechobee Class I landfill are the only significant disposal sites for Broward and Dade municipal solid waste.[4] It is not economically efficient for municipal solid waste haulers to transport that waste long distances in collection trucks to a municipal solid waste disposal site. Consequently, haulers generally transport the waste to nearby landfills, incinerators, or to transfer stations that enable waste economically to be hauled to more distant disposal sites.

E. Anticompetitive Consequences of the Acquisition

The acquisition will place the Reuter Transfer Station in the hands of WMF, who, as a competitor, will have the incentive and opportunity to deprive Chambers of its only current means of economically providing municipal solid waste disposal service in Dade County. This would remove the competitive constraint of Chambers and facilitate WMF's exercise of market power (i.e. the ability to increase prices to consumers in Broward and Dade Counties). Specifically, the Complaint alleges that the acquisition of Reuter by WMF will have the effect of substantially increasing concentration in an already highly concentrated, difficult to enter market; the HHI would increase by about 1,700 to about 5,000.[5]

The only significant competitor of WMF that would remain after the

[2] A Class I landfill in Florida is a landfill that receives an average of 20 tons or more of solid waste per day. Each is permitted to receive general, non-hazardous household, commercial, industrial, and agricultural wastes. Class II landfills may receive up to 20 tons per day of these same types of waste, but there are no such landfills in Dade or Broward counties, FL.

[3] The incinerators are resource recovery facilities owned by Wheelabrator North Broward Inc. and Wheelabrator South Broward Inc., affiliates of WMF. These facilities accept municipal solid waste pursuant to a contract with Broward County. These facilities also compete for waste from other haulers and municipalities.

[4] Broward County has a Class I landfill, but that landfill does not currently accept municipal solid waste. It was constructed to accept waste until the two resource recovery facilities came on line, to accept waste in the event of an incinerator shutdown, and for its future use, if needed. There are landfills owned by St. Lucie County, and Martin County, and an incinerator owned by Palm Beach County that are within 100 miles of Dade County. However, they are not good alternatives to disposal sites in Dade and Broward Counties because the distance is too great for collection trucks to reach economically. Furthermore, they are much higher-priced alternatives than the Okeechobee landfill and do not generally accept from Dade or Broward Counties.

[5] These HHI's are calculated using a bidding model. The three existing competing bidders for municipal solid waste disposal service in the market are treated as equal-sized firms for purposes of this HHI calculation.

acquisition is Dade County. Rivalry between WMF and Dade County alone will not prevent prices from rising, because Chambers provides a substantial competitive check on WMF's and Dade County's individual ability to set prices for their services. This is evidenced by the substantial drop in municipal solid waste disposal prices that followed Chambers' entry into the market.

The Complaint alleges that new entry in the Broward and Dade County market is unlikely to counteract these anticompetitive effects. The siting, permitting and construction of a municipal solid waste landfill or incinerator within or near Dade will take well in excess of two years. In fact, it is unlikely that a new municipal solid waste landfill or incinerator could be constructed in the area in the foreseeable future, given opposition from the nearby general public to such facilities.

The zoning, siting, permitting and construction of a municipal solid waste transfer station in a commercially and economically feasible location to receive municipal solid waste from the relevant geographic market can also be expected to take more than two years due to public opposition in this geographic market.

III

Explanation of the Proposed Final Judgment

The provisions of the proposed Final Judgment are designed to preserve the level of competition that would exist absent this acquisition, and thereby eliminate the anticompetitive effects of the acquisition in municipal solid waste disposal service in the relevant geographic market.

A. Entry Into and Compliance With Agreements

Section IV of the proposed Final Judgment requires that Reuter shall enter into two agreements on or before the date WMF purchases the majority of the stock of Reuter. First, Reuter is required to enter into a contract with Chambers entitled ''Amendment to Transfer Station Agreement'' (hereinafter ''Amendment''). Second, Reuter is required to enter into an Option Agreement, giving Chambers an irrevocable option to purchase certain property from Reuter upon which to construct its own municipal solid waste transfer station. Section IV also prohibits Reuter from conveying to anyone other than Chambers the property subject to the Option Agreement prior to the later of July 14, 1998 or any extension of the Option Agreement. Section IV obligates Reuter and WMF to comply with the terms of both agreements.

1. Amendment to Transfer Station Agreement

On July 14, 1993, Reuter and Chambers entered into the Transfer Station Agreement. That contract permitted Chambers to use the facility built by Reuter as a transfer station to transport waste to Chambers' Okeechobee landfill in south central Florida.

The agreement has a five year term and could be extended by mutual agreement for two additional five year terms. Reuter operated the transfer station under this agreement and agreed to pay Chambers to transport municipal solid waste from the transfer station to Chambers' landfill in Okeechobee County. In return, Chambers agreed to pay Reuter for operating the transfer station. Initially, the vast majority of waste transported through the transfer station came from four cities in Broward County—Pompano Beach, Pembroke Pines, Dania, and Hallandale—pursuant to a 20 year contract between Reuter and those cities. However, the agreement also assured Chambers the right to bring up to 800 tons per day of waste from its own customers to the transfer station for transportation to its landfill.

The Amendment requires WMF to honor the Transfer Station Agreement giving Chambers access to the transfer station and modifies that agreement in ways that prevent WMF from interfering with Chambers' use of the transfer station to compete with WMF. The Amendment also eliminates the provision that would have given WMF veto power over an extension of the contract beyond its initial five year term. The Amendment gives to Chambers, in its sole discretion, the option to extend the Transfer Station Agreement for two additional one year terms.

The Amendment modifies the Transfer Station Agreement to permit Chambers to operate approximately one half of the transfer station (roughly its current capacity) as an independent entity. In effect, Chambers will replace Reuter as the operator of the transfer station for the next three years, handling all waste from its customers and any waste not recycled from the four cities. During any extension period, Chambers will continue to operate about half of the transfer station, handling waste from its own customers.

The Amendment also prohibits WMF from reducing Chambers' capacity in the transfer station as the Transfer Station Agreement would have allowed. The Amendment prohibits WMF from reducing the 800 ton per day capacity Chambers currently has to use for the waste of its own customers.

These, and other provisions in the Amendment, assure that Chambers can operate in the acquired transfer station as an independent competitive force in the solid waste disposal market as it would have been able to do absent the acquisition.

2. Option Agreement

The proposed Final Judgment also requires Reuter to enter into an Option Agreement on or before the date WMF acquires a majority of Reuter's stock. The Option Agreement gives Chambers an irrevocable option for up to three years to purchase certain real estate. That real estate is on the grounds of the current Reuter Transfer Station facility. Chambers will have up to three years to seek necessary permits before it needs to pay Reuter any substantial monies for the real estate. Furthermore, during the initial three years of the Option Agreement, Chambers is not obligated to purchase the land. It may seek to permit the site for a transfer station without actually buying the real estate.

The Option Agreement also gives Chambers the right to extend the option for two additional one year periods upon payment to Reuter of a fee, part of which will be credited toward the purchase price if Chambers buys the property. Chambers' right to extend the Option Agreement is contingent upon Chambers' active pursuit of transfer station permits from the appropriate state and county authorities.

This Option Agreement provides Chambers with the right to purchase a well-situated piece of real estate upon which to permit and build its own transfer station for use in the long term. It gives Chambers up to five years to obtain any necessary permits on the land without actually purchasing the real estate from Reuter.

B. Termination of the Agreements

The proposed Final Judgment also provides that the obligations of the Defendants under the above agreements can be terminated under certain conditions. Specifically, if Defendants notify Plaintiffs that Chambers has secured the right to use and is using another transfer station capable of serving the relevant geographic market at current or increased capacity levels, Plaintiffs may relieve Defendants of the obligation to extend the Transfer Station Agreement or to hold open the Option Agreement. As provided in the proposed Final Judgment, however, the

Plaintiffs will not relieve Defendants of these obligations unless the United States has determined, after consultation with Florida, that Chambers can effectively compete in the relevant market without access to either the Reuter Transfer Station under the Transfer Station Agreement, as amended, or without the property subject to the Option Agreement.

C. Interim Preservation of Viable Competition

Section VI of the proposed Final Judgment assures that competition is not unduly undermined by the fact that Chambers has access to the Reuter Transfer Station for only a limited period of time while WMF has use of that facility for the long term. Specifically, the provision is designed to assure that WMF cannot tie up all customers that want to use the Reuter Transfer Station by offering long-term contracts when Chambers would be at a huge competitive disadvantage in offering similar contracts. The provision prohibits WMF from offering contracts for longer than a year through Reuter to existing Chambers customers using the Reuter facility since Chambers cannot offer long-term contracts until it builds its own facility.

Plaintiffs determined that allowing WMF to use the Reuter facility to offer long-term contracts could seriously undermine competition. without long-term use of a facility, Chambers cannot effectively compete for long-term contracts. If WMF can do so, it will be able to disadvantage Chambers and, ultimately, consumers by tying up most, if not all, the customers in the market before Chambers can effectively compete for customers using long-term contracts. To preserve the long-term options of consumers while Chambers or other competitors establish a long-term presence, Plaintiffs placed a limit on the length of contract WMF could offer using the Reuter facility.

The limitation is narrowly drawn, however. First, the provision applies only to existing customers of Chambers using the Reuter facility. Second, the provision does not preclude WMF from offering long-term contracts to these customers if it uses any facility other than the Reuter Transfer Station to accept the waste. Third, it does not preclude WMF from competing with Chambers for these customers using short-term contracts. In effect, this provision prevents WMF from committing customers to long-term contracts through the use of Reuter while Chambers is unable to offer similar contracts. However, the protection is limited by WMF's ability to continue to compete for these customers using either other sites or short-term contracts. The provision does not affect competition between Chambers and Dade County in any way.

D. Defendants' Obligations of Noninterference and Assistance

Obtaining permits and other governmental approvals constitute the largest barrier to entry into the municipal solid waste disposal market in the relevant geographic area. Section VII of the proposed Final Judgment prohibits any interference, directly or indirectly, by Defendants, including any action to protest, lobby against, object to, or otherwise impede any attempts by Chambers to lease, purchase, site, obtain appropriate zoning for, obtain permits and any and all other governmental approvals for a solid waste transfer station capable of serving the relevant market. It also prohibits Defendants from providing financing or other assistance to any person who does so. Finally, it obligates Defendants to cooperate with Chambers' efforts to obtain government permits and approvals on the property subject to the Option Agreement.

E. Acquisition of Optioned Property

Section VIII of the proposed Final Judgment prohibits Defendants from reacquiring the property subject to the Option Agreement from Chambers or its successors or assigns without the prior written consent of the United States, after consultation with Florida, for the life of the proposed Final Judgment.

F. Reporting and Access

Section IX of the proposed Final Judgment establishes standards and procedures by which the Department of Justice and Florida may obtain access to documents and information from Defendants related to its compliance with the Final Judgment.

G. Duration

Section X of the proposed Final Judgment provides that the Final Judgment will expire on the tenth year after its entry. Jurisdiction will be retained by the Court to conduct further proceedings relating to the Final Judgment, as specified in Section IX.

IV

Remedies Available to Potential Private Litigants

Section 4 of the Clayton Act (15 U.S.C. § 15) provides that any person who has been injured as a result of conduct prohibited by the antitrust laws may bring suit in federal court to recover three times the damages the person has suffered, as well as costs and reasonable attorneys' fees. Entry of the proposed Final Judgment will neither impair nor assist the bringing of any private antitrust damage action. Under the provisions of Section 5(a) of the Clayton Act (15 U.S.C. 16(a)), the proposed Final Judgment has no *prima facie* effect in any subsequent private lawsuit that may be brought against defendants.

V

Procedures Available for Modification of the Proposed Final Judgment

The United States, Florida, and Defendants have stipulated that the proposed Final Judgment may be entered by the Court after compliance with the provisions of the APPA, provided that Plaintiffs have not withdrawn their consent. The APPA conditions entry upon the Court's determination that the proposed Final Judgment is in the public interest.

The APPA provides a period of at least 60 days preceding the effective date of the proposed Final Judgment within which any person may submit to the United States written comments regarding the proposed Final Judgment. Any person who wishes to comment should do so within sixty (60) days of the date of publication of this Competitive Impact Statement in the Federal Register. The United States will evaluate and respond to the comments. All comments will be given due consideration by the Department of Justice, which remains free to withdraw its consent to the proposed Judgment at any time prior to entry. The comments and the response of the United States will be filed with the Court and published in the Federal Register.

Written comments should be submitted to: Anthony V. Nanni, Chief, Litigation I Section, Antitrust Division, United States Department of Justice, 1401 H Street, N.W., Suite 4000, Washington, D.C. 20530.

The proposed Final Judgment provides that the Court retains jurisdiction over this action, and the parties may apply to the Court for any order necessary or appropriate for the modification, interpretation, or enforcement of the Final Judgment.

VI

Alternatives to the Proposed Final Judgment

The United States considered, as an alternative to the proposed Final Judgment, a full trial on the merits of its Complaint against Defendants. It also considered the possibility of requiring WMF to divest itself of the transfer

station buildings and related appurtenances before permitting it to acquire Reuter. The United States is satisfied, however, that the relief outlined in the proposed Final Judgment will eliminate WMF's ability to constrain prices or output by eliminating a competitor from the solid waste disposal market in the relevant geographic market. The relief obtained will maintain the competition in the market by creating an essentially independent transfer station for five years and also by providing property upon which an independent transfer station can be constructed to be in operation for the indefinite future. The relief sought eliminates anticompetitive effects in the short term by essentially maintaining the *status quo.* It preserves competition in the long term by providing time to build and by facilitating the construction of an additional competitive transfer station.

VII

Standard of Review Under the APPA for Proposed Final Judgment

The APPA requires that proposed consent judgments in antitrust cases brought by the United States be subject to a sixty-day comment period, after which the court shall determine whether entry of the proposed Final Judgment ''is in the public interest.'' In making that determination, the court *may* consider—

(1) the competitive impact of such judgment, including termination of alleged violations, provisions for enforcement and modification, duration or relief sought, anticipated effects of alternative remedies actually considered, and any other considerations bearing upon the adequacy of such judgment;

(2) the impact of entry of such judgment upon the public generally and individuals alleging specific injury from the violations set forth in the complaint including consideration of the public benefit, if any, to be derived from a determination of the issues at trial.

15 U.S.C. 16(e) (emphasis added). As the D.C. Circuit recently held, this statute permits a court to consider, among other things, the relationship between the remedy secured and the specific allegations set forth in the government's complaint, whether the decree is sufficiently clear, whether enforcement mechanisms are sufficient, and whether the decree may positively harm third parties. See *United States* v. *Microsoft,* 56 F.3d 1448, 1462 (D.C. Cir. 1995).

In conducting this inquiry, ''the Court is nowhere compelled to go to trial or to engage in extended proceedings which might have the effect of vitiating the benefits of prompt and less costly settlement through the consent decree process.'' [6] Rather,

absent a showing of corrupt failure of the government to discharge its duty, the Court, in making its public interest finding, should * * * carefully consider the explanations of the government in the competitive impact statement and its responses to comments in order to determine whether those explanations are reasonable under the circumstances.

United States v. *Mid-America Dairymen, Inc.,* 1977–1 Trade Cas. ¶61,508, at 71,980 (W.D. Mo. 1977).

Accordingly, with respect to the adequacy of the relief secured by the decree, a court may not ''engage in an unrestricted evaluation of what relief would best serve the public.'' *United States* v. *BNS, Inc.,* 858 F.2d 456, 462 (9th Cir. 1988) *quoting United States* v. *Bechtel Corp.,* 648 F.2d 660, 666 (9th Cir.), *cert. denied,* 454 U.S. 1083 (1981); see also Microsoft, 56 F.3d at 1460. Precedent requires that the balancing of competing social and political interests affected by a proposed antitrust consent decree must be left, in the first instance, to the discretion of the Attorney General. The court's role in protecting the public interest is one of insuring that the government has not breached its duty to the public in consenting to the decree. The court is required to determine not whether a particular decree is the one that will best serve society, but whether the settlement is ''within the reaches of the public interest.'' More elaborate requirements might undermine the effectiveness of antitrust enforcement by consent decree.[7]

The proposed Final Judgment, therefore, should not be reviewed under a standard of whether it is certain to eliminate every anticompetitive effect of a particular practice or whether it mandates certainty of free competition in the future. Court approval of a final judgment requires a standard more flexible and less strict than the standard required for a finding of liability. ''[A] proposed decree must be approved even if it falls short of the remedy the court would impose on its own, as long as it falls within the range of acceptability or is 'within the reaches of public interest.' (citations omitted).'' [8]

VIII

Determinative Documents

In formulating the proposed Final Judgment, the United States considered the following determinative materials or documents within the meaning of the APPA: the Transfer Station Agreement attached to the proposed Final Judgment as Exhibit A; the Amendment to Transfer Station Agreement attached to the proposed Final Judgment as Exhibit B; and the Option Agreement attached to the proposed Final Judgment as Exhibit C.

Dated: October 20, 1995.

Respectfully submitted,

Nancy H. McMillen,

Attorney, Antitrust Division, U.S. Department of Justice, 1401 H Street, N.W., Suite 4000, Washington, D.C. 20530, (202) 307–5777.

Certification of Service

I hereby certify that a copy of the foregoing has been served upon Waste Management, Inc. of Florida and Reuter Recycling of Florida, Inc., by placing a copy of this Competitive Impact Statement in the U.S. mail, directed to each of the above named parties at the addresses given below, this 20th day of October, 1995.

Michael Sennett, Esquire,

Bell, Boyd & Lloyd, 3 First National Plaza, 70 West Madison Street, Chicago, IL 60602.

Andrew N. Cook, Esquire,

Bell, Boyd & Lloyd, 1615 L Street, N.W., Washington, D.C. 20036.

John H. Korns,

Oppenheimer, Wolff & Donnelly, 1020 19th Street, N.W., Suite 400, Washington, D.C. 20036.

Office of the Attorney General, State of Florida, The Capitol, Tallahassee, Florida 32399–1050.

Nancy H. McMillen,

Attorney, U.S. Department of Justice, Antitrust Division, 1401 H. Street, N.W., Suite 4000, Washington, D.C. 20530, (202) 307–5777.

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BILLING CODE 4410–01–M

[6] 119 Cong. Rec. 24598 (1973). See *United States* v. *Gillette Co.,* 406 F. Supp. 713, 715 (D. Mass. 1975). A ''public interest'' determination can be made properly on the basis of the Competitive Impact Statement and Response to Comments filed pursuant to the APPA. Although the APPA authorizes the use of additional procedures, 15 U.S.C. § 16(f), those procedures are discretionary. A court need not invoke any of them unless it believes that the comments have raised significant issues and that further proceedings would aid the court in resolving those issues. See H.R. Rep. 93–1463, 93rd Cong. 2d Sess. 8–9, reprinted in (1974) U.S. & Ad. News 6535, 6538.

[7] *United States* v. *Bechtel,* 648 F.2d at 666 (citations omitted) (emphasis added); see *United States* v. *BNS, Inc.,* 858 F.2d at 463; *United States* v. *National Broadcasting Co.,* 449 F. Supp. 1127, 1143 (C.D. Cal. 1978); *United States* v. *Gillette Co.,* 406 F. Supp. at 716. *See also United States* v. *American Cyanamid Co.,* 719 F.2d at 565.

[8] *United States* v. *American Tel. and Tel Co.,* 552 F. Supp. 131, 150 (D.D.C. 1982), *aff'd sub nom. Maryland* v. *United States,* 460 U.S. 1001 (1983) *quoting United States* v. *Gillette Co., supra,* 406 F. Supp. at 716; *United States* v. *Alcan Aluminum, Ltd.,* 605 F. Supp. 619, 622 (W.D. Ky 1985).

NATIONAL FOUNDATION ON THE ARTS AND THE HUMANITIES

National Endowment for the Arts; Expansion Arts Advisory Meeting

Pursuant to Section 10(a)(2) of the Federal Advisory Committee Act (Pub. L 92–463), as amended, notice is hereby given that a meeting of the Expansion Arts Advisory Panel (Multidisciplinary/ VMDL Section) to the National Council on the Arts will be held on November 27–30, 1995. The panel will meet from 9:00 a.m. to 6:00 p.m. on November 27–29 and from 9:00 a.m. to 4:00 p.m. on November 30. This meeting will be held in Room 716, at the Nancy Hanks Center, 1100 Pennsylvania Avenue, NW., Washington, D.C. 20506.

A portion of this meeting will be open to the pubic from 9:00 a.m. to 10:30 a.m. on November 27, for opening remarks and a general program overview and from 3:30 p.m. to 4:30 p.m. on November 29, for a policy discussion.

The remaining portions of this meeting from 10:30 a.m. to 6:00 p.m. on November 27, from 9:00 a.m. to 6:00 p.m. on November 28–29, from 9:00 a.m. to 3:30 p.m. on November 30, are for the purpose of Panel review, discussion, evaluation, and recommendation on applications for financial assistance under the National Foundation on the Arts and the Humanities Act of 1965, as amended, including information given in confidence to the agency by grant applicants. In accordance with the determination of the Chairman of June 22, 1995, these sessions will be closed to the public pursuant to subsection (c)(4), (6) and (9)(B) of section 552b of Title 5, United States Code.

Any person may observe meetings, or portions thereof, of advisory panels which are open to the public, and may be permitted to participate in the panel's discussions at the discretion of the panel chairman and with the approval of the full-time Federal employee in attendance.

If you need special accommodations due to a disability, please contact the Office of AccessAbility National Endowment for the Arts, 1100 Pennsylvania Avenue, NW., Washington, D.C. 20506, 202/682–5532, TDY–TDD 202/682–5496, at least seven (7) days prior to the meeting.

Further information with reference to this meeting can be obtained from Ms. Yvonne Sabine, Committee Management Officer, National Endowment for the Arts, Washington, D.C. 20506, or call 202/682–5433.

Dated: October 27, 1995.

Yvonne M. Sabine,

Director, Office of Council and Panel Operations, National Endowment for the Arts.

[FR Doc. 95–27161 Filed 11–1–95; 8:45 am]

BILLING CODE 7537–01–M

National Endowment for the Arts; Literature Advisory Meeting

Pursuant to Section 10(a)(2) of the Federal Advisory Committee Act (Pub. L. 92–463), as amended, notice is hereby given that a meeting of the Literature Advisory panel (Creative Writing: Fiction: Creative Nonfiction Section) to the national Council on the Arts will be held on November 7–9, 1995. The panel will meet from 9:00 a.m. to 5:30 p.m. on November 7; from 9:00 a.m. to 6:30 p.m. on November 8; and from 9:00 a.m. to 5:00 p.m. on November 9 in Room M–07, at the Nancy Hanks Center, 1100 Pennsylvania Avenue NW., Washington D.C. 20506.

A portion of this meeting will be open to the public from 3:00 p.m. to 5:00 p.m. on November 9, for a policy discussion.

The remaining portions of this meeting from 9:00 a.m. to 5:30 p.m. on November 7; from 9:00 a.m. to 6:30 p.m. on November 8; and from 9:00 a.m. to 3:00 p.m. on November 9, are for the purpose of Panel review, discussion, evaluation, and recommendation on applications for financial assistance under the National Foundation on the Arts and the Humanities Act of 1965, as amended, including information given in confidence to the agency by grant applicants. In accordance with the determination of the Chairman of June 22, 1995, these sessions will be closed to the public pursuant to subsection (c)(4), (6), and (9)(B) of section 552b of Title 5, United States Code.

Any person may observe meetings, or portions thereof, of advisory panels which are open to the public, and may be permitted to participate in the panel's discussions at the discretion of the panel chairman and with the approval of the full-time Federal employee in attendance.

If you need special accommodations due to a disability, please contact the Office of AccessAbility National Endowment for the Arts, 1100 Pennsylvania Avenue NW., Washington, D.C. 20506, 202/682–5532. TDY–TDD 202/682–5496, at least seven (7) days prior to the meeting.

Further information with reference to this meeting can be obtained from Ms. Yvonne Sabine, Committee Management Officer, National Endowment for the Arts, Washington, D.C. 20506, or call 202/ 682–5433.

Dated: October 27, 1995.

Yvonne M. Sabine,

Director, Office of Council and Panel Operations, National Endowment for the Arts.

[FR Doc. 95–27163 Filed 11–1–95; 8:45 am]

BILLING CODE 7537–01–M

National Endowment for the Arts; Music Advisory Meeting

Pursuant to Section 10(a)(2) of the Federal Advisory Committee Act (Pub. L. 92–463), as amended, notice is hereby given that a meeting of the Music Advisory Panel (Orchestra Section) to the National Council on the Arts will be held on November 6–10, 1995, from 9:00 a.m. to 6:00 p.m. on November 6–9 and on November 10, from 9:30 a.m. to 3:00 p.m. This meeting will be held in Room M–09, at the Nancy Hanks Center, 1100 Pennsylvania Avenue NW., Washington, DC 20506.

A portion of this meeting will be open to the public from 1:00 p.m. to 3:00 p.m. on November 10, for a discussion regarding the Endowment's new structure; the needs and opportunities for the Orchestral field; and leadership initiatives.

The remaining portions of this meeting from 9:00 a.m. to 6:00 p.m. on November 6–9 and from 9:30 a.m. to 1:00 p.m. on November 10, are for the purpose of Panel review, discussion, evaluation, and recommendation on applications for financial assistance under the National Foundation on the Arts and the Humanities Act of 1965, as amended, including information given in confidence to the agency by grant applicants. In accordance with the determination of the Chairman of June 22, 1995, these sessions will be closed to the public pursuant to subsection (c)(4)(6), and (9)(B) of section 552b of Title 5, United States Code.

Any person may observe meetings, or portions thereof, of advisory panels which are open to the public, and may be permitted to participate in the panel's discussions at the discretion of the panel chairman and with the approval of the full-time Federal employee in attendance.

If you need special accommodations due to a disability, please contact the Office of AccessAbility National Endowment for the Arts, 1100 Pennsylvania Avenue NW., Washington, D.C. 20506, 202/682–5532, TDY–TDD 202/682–5496, at least seven (7) days prior to the meeting.

Further information with reference to this meeting can be obtained from Ms. Yvonne Sabine, Committee Management Officer, National Endowment for the

Arts, Washington, D.C. 20506, or call 202/682–5433.

Dated: October 27, 1995.

Yvonne M. Sabine,

Director, Office of Council and Panel Operations National Endowment for the Arts.

[FR Doc. 95–27162 Filed 11–1–95; 8:45 am]

BILLING CODE 7537–01–M

National Endowment for the Arts; Visual Arts Advisory Meeting

Pursuant to section 10(a)(2) of the Federal Advisory Committee Act (Pub. L. 92–463), as amended, notice is hereby given that a meeting of the Visual Arts Advisory Panel (Artistis' Communities/ Visual Arts Organizations Section) to the National Council on the Arts will be held on November 13–17, 1995. This meeting will meet from 9:00 a.m. to 7:00 p.m. on November 13–16 and from 9:00 to 5:00 p.m. on November 17. The panel will be held in Room 716, at the Nancy Hanks Center, 1100 Pennsylvania Avenue NW., Washington, D.C. 20506.

A portion of this meeting will be open to the public from 3:00 p.m. to 5:00 p.m. on November 17, for a policy and guidelines discussion.

The remaining portions of this meeting from 9:00 a.m. to 7:00 p.m. on November 13 to 16 and from 9:00 to 3:00 p.m. on November 17 are for the purpose of Panel review, discussion, evaluation, and recommendation on applications for financial assistance under the National Foundation on the Arts and the Humanities Act of 1965, as amended, including information given in confidence to the agency by grant applicants. In accordance with the determination of the Chairman of June 22, 1995, these sessions will be closed to the public pursuant to subsection (c) (4), (6), and (9)(B) of section 552b of Title 5, United States Code.

Any person may observe meetings, or portions thereof, of advisory panels which are open to the public, and may be permitted to participate in the panel's discussions at the discretion of the panel chairman and with the approval of the full-time Federal employees in attendance.

If you need special accommodations due to a disability, please contact the Office of AccessAbility National Endowment for the Arts, 1100 Pennsylvania Avenue NW., Washington, D.C. 20606, 202/682–5532, TDY–TDD 202/682–5496, at least seven (7) days prior to the meeting.

Further information with reference to this meeting can be obtained from Ms. Yvonne Sabine, Committee Management Officer, National Endowment for the Arts, Washington, DC 20506, or call 202/682–5433.

Dated: October 27, 1995.

Yvonne M. Sabine,

Director, Office of Council and Panel Operations, National Endowment for the Arts.

[FR Doc. 95–27164 Filed 11–1–95; 8:45 am]

BILLING CODE 7537–01–M

NUCLEAR REGULATORY COMMISSION

[Docket No. 50–344]

Portland General Electric Company; Trojan Nuclear Plant; Environmental Assessment and Finding of No Significant Impact

The U.S. Nuclear Regulatory Commission (the Commission) is considering issuance of an exemption from the requirements of 10 CFR 140.11(a)(4) to Facility Operating License No. NPF–1 issued to Portland General Electric (PGE or the licensee) for the Trojan Nuclear Plant (TNP) located at the licensee's site in Columbia County, Oregon. The exemption would be effective on November 9, 1995, 3 years from the date of final shutdown of the reactor.

Environmental Assessment

Identification of Proposed Action

The proposed action would grant an exemption from the requirements of 10 CFR 140.11(a)(4) reducing the primary financial protection that shall be maintained by the licensee for the facility from $200 million to $100 million. Exemption will be granted from participation in the industry retrospective rating plan (secondary level financial protection) for TNP. The licensee requested the exemption in a letter dated April 6, 1995.

The Need for the Proposed Action

TNP was permanently shut down on November 9, 1992. In a license amendment dated May 5, 1993, the NRC modified Facility Operating License No. NPF–1 to a possession-only license (POL). The license is conditioned so that PGE is not authorized to operate or place fuel in the reactor vessel, thus formalizing the licensee's commitment to permanently cease power operations. The plant will have been shut down for 3 years at the time the exemption becomes effective, and radioactive decay will have significantly reduced the radionuclide inventory and decay heat of the spent fuel. Because sufficient spent fuel cooling period of 3 years has elapsed, the potential for significant offsite consequences no longer exists at TNP. Therefore, the requested exemption addresses two areas for relief in financial protection requirements: (1) A reduction in the primary financial protection coverage requirements from $200 million to $100 million and (2) withdrawal from participation in the industry retrospective rating plan. Because TNP no longer contributes as great a risk to the industry retrospective rating plan participants as an operating plant, this reduction in risk should be reflected in the indemnification requirements to which the licensee is subject. Approval of this request would allow a more equitable allocation of financial risk.

Environmental Impact of the Proposed Action

The proposed action does not involve any environmental impacts. The proposed exemption involves changes in insurance and/or indemnity requirements, for which the Commission in 10 CFR 51.22(c)(10) has determined that a license amendment would meet the criteria for categorical exclusion from the need for either an environmental assessment or an environmental impact statement. Therefore, the Commission has determined that this exemption will have no significant impact on the environment.

Because the proposed action does not involve a change in plant operation or configuration, there is reasonable assurance that the proposed action would not increase the probability or the consequences of an accident or reduce the margin of safety, no changes would be made in the types or quantities of effluents that may be released offsite, and there would be no significant increase in the allowable individual or cumulative radiation exposure.

Accordingly, the Commission concludes that this proposed action would result in no significant radiological environmental impact.

With regard to potential nonradiological impacts, the proposed action does not affect nonradiological plant effluents and has no other environmental impact. Therefore, the Commission concludes that there are no significant nonradiological impacts associated with the proposed action.

Alternatives to the Proposed Action

Because the Commission has concluded that there are no measurable environmental impacts associated with the proposed action, any alternative with equal or greater environmental impacts need not be evaluated.

The principal alternative would be to deny the action. This alternative would not reduce the environmental impacts of plant operation and would not enhance the protection of the environment nor public health and safety.

Alternative Use of Resources

This action does not involve the use of any resources not previously considered in the Final Environmental Statement for TNP dated August 1973.

Agencies and Persons Consulted

The NRC staff consulted with a representative of the State of Oregon regarding the environmental impact of the proposed action. The representative had no comments.

Finding of No Significant Impact

The Commission has determined not to prepare an environmental impact statement for the proposed exemption.

On the basis of the foregoing environmental assessment, the Commission concludes that the proposed action will not have a significant effect on the quality of the human environment.

For further details with respect to this action, see the licensee's application for exemption dated April 6, 1995, which is available for public inspection at the Commission's Public Document Room, Gelman Building, 2120 L Street NW., Washington, DC 20555, and at the Local Public Document Room for TNP at the Branford Price Millar Library, Portland State University, Portland, Oregon 97207.

Dated at Rockville, Maryland, this 26th day of October 1995.

For the Nuclear Regulatory Commission.

Seymour H. Weiss,

Director, Non-Power Reactors and Decommissioning Project Directorate, Division of Reactor Program Management Office of Nuclear Reactor Regulation.

[FR Doc. 95–27193 Filed 11–1–95; 8:45 am]

BILLING CODE 7590–01–P

OFFICE OF MANAGEMENT AND BUDGET

1995 List of Designated Federal Entities and Federal Entities

AGENCY: Office of Management and Budget.

ACTION: Notice.

SUMMARY: This notice provides a list of Designated Federal Entities and Federal Entities, as required by the Inspector General Act of 1978 (IG Act), as subsequently amended.

FOR FURTHER INFORMATION CONTACT: Suzanne Murrin (telephone: 202–395–1040), Office of Federal Financial Management, Office of Management and Budget.

SUPPLEMENTARY INFORMATION: This notice provides a copy of the 1995 List of Designated Federal Entities and Federal Entities, which the Office of Management and Budget (OMB) is required to publish annually under the IG Act.

The List is divided into two groups: Designated Federal Entities and Federal Entities. The Designated Federal Entities are required to establish and maintain Offices of Inspector General. The 30 Designated Federal Entities are as listed in the IG Act, with one recent deletion. As of August 1995, the Board for International Broadcasting was abolished.

Federal Entities are required to annually report to each House of the Congress and the OMB on audit and investigative activities in their organizations. Federal Entities are defined as ''any Government controlled corporation (within the meaning of section 103(1) of title 5, United States Code), any Government controlled corporation (within the meaning of section 103(2) of such title), or any other entity in the Executive Branch of the government, or any independent regulatory agency'' other than the Executive Office of the President and agencies with statutory Inspectors General. There are 5 additions and 1 deletion in the 1995 Federal Entities list from the 1994 list.

The 1995 Designated Federal Entities and Federal Entities List was prepared in consultation with the U.S. General Accounting Office.

G. Edward DeSeve,

Controller, Office of Federal Financial Management.

Herein follows the text of the 1995 List of Designated Federal Entities and Federal Entities:

1995 List of Designated Federal Entities and Federal Entities

The IG Act, as subsequently amended, requires OMB to publish a list of ''Designated Federal Entities'' and ''Federal Entities'' and the heads of such entities. Designated Federal Entities were required to establish Offices of Inspector General before April 17, 1989. Federal Entities are required to report annually to each House of the Congress and the Office of Management and Budget on audit and investigative activities in their organizations.

Designated Federal Entities and Entity Heads

1. Amtrak—Chairperson
2. Appalachian Regional Commission—Federal Co-Chairperson
3. The Board of Governors, Federal Reserve System—Chairperson
4. Commodity Futures Trading Commission—Chairperson
5. Consumer Product Safety Commission—Chairperson
6. Corporation for Public Broadcasting—Board of Directors
7. Equal Employment Opportunity Commission—Chairperson
8. Farm Credit Administration—Chairperson
9. Federal Communications Commission—Chairperson
10. Federal Election Commission—Chairperson
11. Federal Housing Finance Board—Chairperson
12. Federal Labor Relations Authority—Chairperson
13. Federal Maritime Commission—Chairperson
14. Federal Trade Commission—Chairperson
15. Interstate Commerce Commission—Chairperson
16. Legal Services Corporation—Board of Directors
17. National Archives and Records Administration—Archivist of the United States
18. National Credit Union Administration—Board of Directors
19. National Endowment for the Arts—Chairperson
20. National Endowment for the Humanities—Chairperson
21. National Labor Relations Board—Chairperson
22. National Science Foundation—National Science Board
23. Panama Canal Commission—Chairperson
24. Peace Corps—Director
25. Pension Benefit Guaranty Corporation—Chairperson
26. Securities and Exchange Commission—Chairperson
27. Smithsonian Institution—Secretary
28. Tennessee Valley Authority—Board of Directors
29. United States International Trade Commission—Chairperson
30. United States Postal Service—Postmaster General

Federal Entities and Entity Heads

1. Administrative Conference of the United States—Chairperson
2. Advisory Commission on Intergovernmental Relations—Chairperson
3. Advisory Council on Historic Preservation—Chairperson

4. African Development Foundation—Chairperson
5. American Battle Monuments Commission—Chairperson
6. Architectural and Transportation Barriers Compliance Board—Chairperson
7. Armed Forces Retirement Home—Board of Directors
8. Barry Goldwater Scholarship and Excellence in Education Foundation—Chairperson
9. Chemical Safety and Hazard Investigation Board—Chairperson
10. Christopher Columbus Fellowship Foundation—Chairperson
11. Commission for the Preservation of America's Heritage Abroad—Chairperson
12. Commission of Fine Arts—Chairperson
13. Commission on Civil Rights—Chairperson
14. Committee for Purchase from People Who Are Blind or Severely Disabled—Chairperson
15. Defense Nuclear Facilities Safety Board—Chairperson
16. Delaware River Basin Commission—U.S. Commissioner
17. Export-Import Bank—President and Chairperson
18. Farm Credit System Insurance Corporation—Board of Directors
19. Federal Financial Institutions Examination Council Appraisal Subcommittee—Chairperson
20. Federal Mediation and Conciliation Service—Director
21. Federal Mine Safety and Health Review Commission—Chairperson
22. Federal Retirement Thrift Investment Board—Chairperson
23. Franklin Delano Roosevelt Memorial Commission—Chairperson
24. Harry S. Truman Scholarship Foundation—Chairperson
25. Institute of American Indian and Alaska Native Culture and Arts Development—Chairperson
26. Institute of Museum Services—Board of Directors
27. Inter-American Foundation—Chairperson
28. Interstate Commission on the Potomac River Basin—Chairperson
29. James Madison Memorial Fellowship Foundation—Chairperson
30. Japan-U.S. Friendship Commission—Chairperson
31. John F. Kennedy Assassination Records Review Board—Chairperson
32. Marine Mammal Commission—Chairperson
33. Martin Luther King, Jr. Federal Holiday Commission—Chairperson
34. Merit Systems Protection Board—Chairperson
35. Morris K. Udall Scholarship and Excellence in National Environmental Policy Foundation—Chairperson
36. National Bankruptcy Review Commission—Chairperson
37. National Capital Planning Commission—Chairperson
38. National Commission on Libraries and Information Science—Chairperson
39. National Council on Disability—Chairperson
40. National Education Goals Panel—Chairperson
41. National Endowment for Democracy—Chairperson
42. National Gallery of Art—Board of Trustees
43. National Mediation Board—Chairperson
44. National Transportation Safety Board—Chairperson
45. Neighborhood Reinvestment Corporation—Chairperson
46. Nuclear Waste Technical Review Board—Chairperson
47. Occupational Safety and Health Review Commission—Chairperson
48. Office of Government Ethics—Director
49. Office of Navajo and Hopi Indian Relocation—Chairperson
50. Office of Special Counsel—Special Counsel
51. Office of the Nuclear Waste Negotiator—Negotiator
52. Offices of Independent Counsel—Independent Counsels
53. Overseas Private Investment Corporation—Board of Directors
54. Pennsylvania Avenue Development Corporation—Chairperson
55. Postal Rate Commission—Chairperson
56. President's Crime Prevention Council—Chairperson
57. Selective Service System—Director
58. State Justice Institute—Director
59. Susquehanna River Basin Commission—U.S. Commissioner
60. Trade and Development Agency—Director
61. Thrift Depositor Protection Oversight Board—Chairperson
62. U.S. Enrichment Corporation—Chairperson
63. U.S. Holocaust Memorial Council—Chairperson
64. U.S. Institute of Peace—Chairperson
65. Woodrow Wilson International Center for Scholars—Board of Trustees

[FR Doc. 95–27238 Filed 11–1–95; 8:45 am]

BILLING CODE 3110–01–P

OFFICE OF THE UNITED STATES TRADE REPRESENTATIVE

Trade Policy Staff Committee; Public Comments on U.S. Negotiations With the Baltic States: Estonia, Latvia and Lithuania, Concerning Their Respective Accessions to the World Trade Organization (WTO)

AGENCY: Office of the United States Trade Representative.

ACTION: Notice and request for comments.

SUMMARY: The Trade Policy Staff Committee (TPSC) is requesting written public comments with respect to market access issues, including but not limited to tariffs, non-tariff measures and trade in services, related to the accessions of Estonia, Latvia and Lithuania to the WTO. Comments received will be considered by the Executive Branch in developing U.S. positions and objectives for the multilateral and bilateral negotiations that will determine the terms of WTO accession for each of the countries.

DATES: Public comments are due by noon December 1, 1995.

ADDRESS: Office of the U.S. Trade Representative, 600 17th Street, N.W., Washington, D.C. 20508.

FOR FURTHER INFORMATION CONTRACT: Barbara Chattin, Director for Tariff Negotiations (202–395–5097), Peter Collins, Deputy Assistant USTR for Services and Investment (202–395–7271) or Cecilia Leahy Klein, Director for WTO Affairs (202–395–3063), Office of the U.S. Trade Representative.

SUPPLEMENTARY INFORMATION: The Chairman of the Trade Policy Staff Committee invites written comments from the public on the market access-related issues to be addressed in the course of negotiations with Estonia, Latvia and Lithuania for their respective accession to the WTO. These terms will be negotiated separately for each country in bilateral meetings with government representatives and in meetings of the Working Party, established by the members of the WTO to conduct the negotiations.

The Committee is seeking public comments on the possible effect on U.S. trade of Estonia, Latvia and Lithuania's accession to the WTO, with particular reference to any currently applied trade measure that could be subject to the provisions of the WTO, particularly market access issues for goods and services. Market access issues for goods include, but are not limited to, tariff reductions, border measures such as quotas or import licenses, customs

processing issues such as valuation and certification requirements, plant and animal health requirements, food standards, restrictions maintained through state trading enterprises, and other laws or procedures that currently affect exports from the United States (e.g., subsidies, transparency, uniform application of the trading system, national treatment, trade performance requirements associated with investment). Market access issues for services include, but are not limited to, the right of establishment for U.S. services providers, the ability to provide services on a cross-border basis, and the ability of persons to enter temporarily to provide services.

All comments will be considered in developing U.S. positions and objectives for a request of each government in the areas of agriculture, industrial goods, and trade in services. Information on products or practices subject to these negotiations should include, whenever appropriate, the import or export tariff classification number used by Estonia, Latvia or Lithuania for the product concerned (generally based on the tariff nomenclature of the European Union at the 8 digit-level).

Persons submitting written comments should provide a statement, in twenty copies, by noon, Friday, December 1, 1995, to Carolyn Frank, Executive Secretary, TPSC, Office of the U.S. Trade Representative, Room 501, 600 17th Street, NW., Washington, D.C. 20508. Non-confidential information received will be available for public inspection by appointment, in the USTR Reading Room, Room 101, Monday through Friday, 10:00 a.m. to 12:00 noon and 1:00 p.m. to 4:00 p.m. for an appointment call Brenda Webb on 202–395–6186. Business confidential information will be subject to the requirements of 15 CFR 2003.6. Any business confidential material must be clearly marked as such on the cover letter or page and each succeeding page, and must be accompanied by a non-confidential summary thereof.

Frederick L. Montgomery,

Chairman, Trade Policy Staff Committee.

[FR Doc. 95–27206 Filed 11–1–95;8:45am]

BILLING CODE 3190–01–M

Trade Policy Staff Committee; Public Comments on U.S. Negotiations With the Russian Federation (Russia) Concerning Its Accession to the World Trade Organization (WTO)

AGENCY: Office of the United States Trade Representative.

ACTION: Notice and request for comments.

SUMMARY: The Trade Policy Staff Committee (TPSC) is requesting written public comments with respect to market access issues, including but not limited to tariffs, non-tariff measures and trade in services, related to the accession of Russia to the WTO. Comments received will be considered by the Executive Branch in developing U.S. positions and objectives for the multilateral and bilateral negotiations that will determine the terms of WTO accession for Russia.

DATES: Public comments are due by noon, December 1, 1995.

ADDRESSES: Office of the U.S. Trade Representative, 600 17th Street, N.W., Washington, D.C. 20508.

FOR FURTHER INFORMATION CONTACT: Barbara Chattin, Director for Tariff Negotiations (202–395–5097), Peter Collins, Deputy Assistant USTR for Services and Investment (202–395–7271) or Cecilia Leahy Klein, Director for WTO Affairs (202–395–3063), Office of the U.S. Trade Representative.

SUPPLEMENTARY INFORMATION: The Chairman of the Trade Policy Staff Committee invites written comments from the public on the market access-related issues to be addressed in the course of negotiations with Russia for its accession to the WTO. The terms will be negotiated in bilateral meetings with government representatives and in meetings of the Working Party, established by the Members of the WTO to conduct the negotiations.

The Committee is seeking public comments on the possible effect on U.S. trade of Russia's accession to the WTO, with particular reference to any currently applied trade measure that could be subject to the provisions of the WTO, particularly market access for goods and services. Market access issues for goods include, but are not limited to, tariff reductions, border measures such as quotas or import licenses, customs processing issues such as valuation and certification requirements, plant and animal health requirements, food standards, restrictions maintained through state trading enterprises, and other laws or procedures that currently affect exports from the United States (e.g., subsidies, transparency, uniform application of the trading system, national treatment, trade performance requirements associated with investment). Market access issues for services include, but are not limited to, the right of establishment for U.S. services providers, the ability to provide services on a cross-border basis, and the ability of persons to enter temporarily to provide services.

All comments will be considered in developing U.S. positions and objectives for a request of Russia in the areas of agriculture, industrial goods, and trade in services. Information on products or practices subject to these negotiations should include, whenever appropriate, Russia's import or export tariff classification number for the product concerned (generally based on the tariff nomenclature of the European Union at the 8-digit level).

Persons submitting written comments should provide a statement, in twenty copies, by noon, Friday, December 1, 1995, to Carolyn Frank, Executive Secretary, TPSC, Office of the U.S. Trade Representative, Room 501, 600 17th Street, N.W., Washington, D.C. 20508. Non-confidential information received will be available for public inspection by appointment, in the USTR Reading Room, Room 101, Monday through Friday, 10:00 a.m. to 12:00 noon and 1:00 p.m. to 4:00 p.m. For an appointment call Brenda Webb on 202–395–6186. Business confidential information will be subject to the requirements of 15 CFR 2003.6. Any business confidential material must be clearly marked as such on the cover letter or page and each succeeding page, and must be accompanied by a non-confidential summary thereof.

Frederick L. Montgomery,

Chairman, Trade Policy Staff Committee.

[FR Doc. 95–27205 Filed 11–1–95; 8:45 am]

BILLING CODE 3190–01–M

PENSION BENEFIT GUARANTY CORPORATION

Exemption From Bond/Escrow Requirement Relating to Sale of Assets by an Employer Who Contributes to a Multiemployer Plan; Associated Wholesale Grocers, Inc.

AGENCY: Pension Benefit Guaranty Corporation.

ACTION: Notice of exemption.

SUMMARY: The Pension Benefit Guaranty Corporation has granted a request from Associated Wholesale Grocers, Inc. for an exemption from the bond/escrow requirement of section 4204(a)(1)(B) of the Employee Retirement Income Security Act of 1974, as amended. A notice of the request for exemption from the requirement was published on July 14, 1995 (60 FR 36316). The effect of this notice is to advise the public of the decision on the exemption request.

ADDRESSES: The nonconfidential portions of the request for an exemption

and the PBGC response to the request are available for public inspection at the PBGC Communications and Public Affairs Department, Suite 240, at the address below, between the hours of 9:00 a.m. and 4:00 p.m.

FOR FURTHER INFORMATION CONTACT: Gennice D. Brickhouse, Attorney, Office of General Counsel (22550), Pension Benefit Guaranty Corporation, 1200 K Street NW., Washington, D.C. 20005; telephone 202–326–4029 (202–326–4179 for TTY and TDD). These are not toll-free numbers.

SUPPLEMENTARY INFORMATION:

Background

Section 4204 of the Employee Retirement Income Security Act of 1974, as amended by the Multiemployer Pension Plan Amendments Act of 1980, (''ERISA'' or ''the Act''), provides that a bona fide arm's-length sale of assets of a contributing employer to an unrelated party will not be considered to result in a withdrawal if three conditions are met. These conditions, enumerated in section 4204(a)(1)(A)–(C), are that—

(A) the purchaser has an obligation to contribute to the plan with respect to the operations for substantially the same number of contribution base units for which the seller was obligated to contribute;

(B) the purchaser obtains a bond or places an amount in escrow, for a period of five plan years after the sale, in an amount equal to the greater of the seller's average required annual contribution to the plan for the three plan years preceding the year in which the sale occurred or the seller's required annual contribution for the plan year preceding the year in which the sale occurred (the amount of the bond or escrow is doubled if the plan is in reorganization in the year in which the sale occurred); and

(C) the contract of sale provides that if the purchaser withdraws from the plan within the first five plan years beginning after the sale and fails to pay any of its liability to the plan, the seller shall be secondarily liable for the liability it (the seller) would have had but for section 4204.

The bond or escrow described above would be paid to the plan if the purchaser withdraws from the plan or fails to make any required contributions to the plan within the first five plan years beginning after the sale.

Additionally, section 4204(b)(1) provides that if a sale of assets is covered by section 4204, the purchaser assumes by operation of law the contribution record of the seller for the plan year in which the sale occurred and the preceding four plan years.

Section 4204(c) of ERISA authorizes the Pension Benefit Guaranty Corporation (''PBGC'') to grant individual or class variances or exemptions from the purchaser's bond/escrow requirement of section 4204(a)(1)(B) when warranted. The legislative history of section 4204 indicates a Congressional intent that the sales rules be administered in a manner that assures protection of the plan with the least practicable intrusion into normal business transactions. Senate Committee on Labor and Human Resources, 96th Cong., 2nd Sess., S.1076, The Multiemployer Pension Plan Amendments Act of 1980: Summary and Analysis of Considerations 16 (Comm. Print, April 1980); 128 Cong. Rec. S10117 (July 29, 1980). The granting of an exemption or variance from the bond/escrow requirement does not constitute a finding by the PBGC that a particular transaction satisfies the other requirements of section 4204(a)(1). Such questions are to be decided by the plan sponsor in the first instance, and any disputes are to be resolved in arbitration. 29 U.S.C. 1382, 1399, 1401.

Under the PBGC's regulation on variances for sales of assets (29 CFR Part 2643), a request for a variance or waiver of the bond/escrow requirement under any of the tests established in the regulation (29 CFR 2643.12–2643.14) is to be made to the plan in question. The PBGC will consider waiver requests only when the request is not based on satisfaction of one of the four regulatory tests or when the parties assert that the financial information necessary to show satisfaction of one of the regulatory tests is privileged or confidential financial information within the meaning of 5 U.S.C. section 552(b)(4) (the Freedom of Information Act).

Under § 2643.3 of the regulation, the PBGC shall approve a request for a variance or exemption if it determines that approval of the request is warranted, in that it—

(1) would more effectively or equitably carry out the purposes of Title IV of the Act; and

(2) would not significantly increase the risk of financial loss to the plan.

Section 4204(c) of ERISA and § 2643.3(b) of the regulation require the PBGC to publish a notice of the pendency of a request for a variance or exemption in the Federal Register, and to provide interested parties with an opportunity to comment on the proposed variance or exemption.

The Decision

On July 14, 1995 (60 FR 36316), the PBGC published a request from Associated Wholesale Grocers, Inc. (the ''Buyer'') for an exemption from the bond/escrow requirement of section 4204(a)(1)(B) with respect to its April 21, 1995, purchase of certain assets of Homeland Stores, Inc. (the ''Seller''). No comments were received in response to the notice.

According to the request, the Buyer and Seller entered into an Asset Purchase Agreement for the Buyer to purchase, among other things, assets of the Seller in the form of a distribution center located in Oklahoma City and a number of retail stores located in Oklahoma. The final closing of the transaction occurred on April 21, 1995.

Pursuant to a collective bargaining agreement, the Seller contributes to the Central States Southwest and Southeast Areas Pension Fund (the ''Plan'') for employees at operations subject to the sale. Pursuant to collective bargaining agreements, the Buyer is also a contributing sponsor under the Plan.

It is anticipated that the Buyer will enter into a collective bargaining agreement whereby the Buyer will be required to contribute to the Plan for substantially the same number of contribution base units with respect to employees of the Seller who work at operations subject to the sale. Under a Supplemental Agreement, the Seller has agreed to be secondarily liable for any withdrawal liability it would have had with respect to sold operations (if not for section 4204)) should the Buyer withdraw from the Plan within five years of the sale.

The amount of the bond/escrow that would be required under section 4204 (a)(1)(B) of ERISA is $1,000,000.

Based on the representations and statements made in connection with the request for an exemption, the PBGC has determined that an exemption from the bond/escrow requirement is warranted, in that it would more effectively carry out the purposes of Title IV of ERISA and would not significantly increase the risk of financial loss to the Plan. Therefore, the PBGC hereby grants the request for an exemption from the bond/escrow requirement. The granting of an exemption or variance from the bond/escrow requirement of section 4204(a)(1)(B) does not constitute a finding by the PBGC that the transaction satisfies the other requirements of section 4204(a)(1). The determination of whether the transaction satisfies such other requirements is a determination to be made by the Plan sponsor.

Issued at Washington, D.C., on this 24th day of October, 1995.

Martin Slate,

Executive Director.

[FR Doc. 95–27200 Filed 11–1–95; 8:45 am]

BILLING CODE 7708–01–P

PRESIDENTIAL ADVISORY COMMITTEE ON GULF WAR VETERANS' ILLNESSES

Meeting

AGENCY: Presidential Advisory Committee on Gulf War Veterans' Illnesses.

ACTION: Notice of open meeting.

SUMMARY: Under the provisions of the Federal Advisory Committee Act, this notice is hereby given to announce an open meeting concerning the Presidential Advisory Committee on Gulf War Veterans' Illnesses.

DATES: December 4, 1995, 9:00 a.m.-4:30 p.m.; December 5, 1995, 9:00 a.m.-4:30 p.m.

PLACE: Wyndham Emerald Plaza, 400 West Broadway, San Diego, CA, 92101–3504.

SUPPLEMENTARY INFORMATION: The President established the Presidential Advisory Committee on Gulf War Veterans' Illnesses by Executive Order 12961, May 26, 1995. The purpose of this committee is to review and provide recommendations on the full range of government activities associated with Gulf War veterans' illnesses. The committee reports to the President through the Secretary of Defense, the Secretary of Health and Human Services, and the Secretary of Veterans Affairs. The committee members have expertise relevant to the functions of the committee and are appointed by the President from non-Federal sectors.

Tentative Agenda

Monday, December 4, 1995

9:00 a.m.—Call to order and opening remarks
9:05 a.m.—Public comment
10:35 a.m.—Break
10:50 a.m.—Public comment (cont.)
12:00 p.m.—Lunch
1:30 p.m.—Followup on epidemiological research issues panel meeting
3:30 p.m.—Committee discussion and staff briefings on research and health risks
4:30 p.m.—Meeting recessed

Tuesday, December 5, 1995

9:00 a.m.—Committee discussion and staff briefings on charter and interim report
10:45 a.m.—Break
11:00 a.m.—Committee discussion and staff briefings on charter and interim report (cont.)
12:30 p.m.—Lunch
1:30 p.m.—Committee discussion and staff briefings on charter and interim report (cont.)
2:45 p.m.—Break
3:00 p.m.—Committee discussion and staff briefings on charter and interim report (cont.)
4:30 p.m.—Meeting adjourned.

A final agenda will be available at the meeting.

Public Participation

The meeting is open to the public. Members of the public who wish to make oral statements should contact the Advisory Committee at the address or telephone number listed below at least five business days prior to the meeting. Reasonable provisions will be made to include on the agenda presentations from individuals who have not yet had an opportunity to address the Advisory Committee. The Advisory Committee Chair is empowered to conduct the meeting in a fashion that will facilitate the orderly conduct of business. People who wish to file written statements with the Advisory Committee may do so at any time.

FOR FURTHER INFORMATION CONTACT: Miles W. Ewing, Presidential Advisory Committee on Gulf War Veterans' Illnesses, 1411 K Street NW., suite 1000, Washington, DC 20005, Telephone: (202) 761–0066, Fax: (202) 761–0310.

Dated: October 30, 1995.

Carol A. Bock,

Federal Register Liaison Officer, Presidential Advisory Committee on Gulf War Veterans' Illnesses.

[FR Doc. 95–27241 Filed 11–1–95; 8:45 am]

BILLING CODE 3610–76–M

RAILROAD RETIREMENT BOARD

Proposed Data Collection Available for Public Comment and Recommendation

SUMMARY: In accordance with the requirement of Section 3506(c)(2)(A) of the Paperwork Reduction Act of 1995 which provides opportunity for public comment on new or revised data collections, the Railroad Retirement Board will publish periodic summaries of proposed data collections.

Comments are invited on: (a) Whether the proposed information collection is necessary for the proper performance of the functions of the agency, including whether the information has practical utility; (b) the accuracy of the RRB's estimate of the burden of the collection of the information; (c) ways to enhance the quality, utility, and clarity of the information to be collected; and (d) ways to minimize the burden related to the collection of information on respondents, including the use of automated collection techniques or other forms of information technology.

Title and Purpose of Information Collection:

Representative Payee Parental Custody Monitoring: Under Section 12 (a) of the Railroad Retirement Act (RRA), the Railroad Retirement Board (RRB) is authorized to select, make payments to, and to conduct transactions with, a beneficiary's relative or some other person willing to act on behalf of the beneficiary as a representative payee. The RRB is responsible for determining if direct payment to the beneficiary or payment to a representative payee would best serve the beneficiary's interest. Inherent in the RRB's authorization to select a representative payee is the responsibility to monitor the payee to assure that the beneficiary's interests are protected. Triennially, the RRB utilizes Form G–99d, Parental Custody Report, to obtain information needed to verify that a parent-for-child representative payee still has custody of the child. One response is required from each respondent.

Estimate of Annual Respondent Burden

The estimated annual respondent burden is as follows:

Form Nos.	Annual responses	Time (minutes)	Burden (hours)
G–99d	1,850	5	154

ADDITIONAL INFORMATION OR COMMENTS: To request more information or to obtain a copy of the information collection justification, forms, and/or supporting material, please call the RRB Clearance Officer at (312) 751–3363. Comments regarding the information collection should be addressed to Ronald J. Hodapp, Railroad Retirement Board, 844 N. Rush Street, Chicago, Illinois 60611–2092. Written comments should be received within 60 days of this notice.

Chuck Mierzwa,

Clearance Officer.

[FR Doc. 95–27219 Filed 11–1–95; 8:45 am]

BILLING CODE 7905–01–M

1996 Monthly Compensation Base and Other Determinations

AGENCY: Railroad Retirement Board.

ACTION: Notice.

SUMMARY: Pursuant to section 12(r)(3) of the Railroad Unemployment Insurance Act (Act) (45 U.S.C. 362(r)(3)), the Board gives notice of the following:

1. The monthly compensation base under section 1(i) of the Act is $865 for months in calendar year 1996;

2. The amount described in section 1(k) of the Act as ''2.5 times the monthly compensation base'' is $2,162.50 for base year (calendar year) 1996;

3. The amount described in section 2(c) of the Act as ''an amount that bears the same ratio to $775 as the monthly compensation base for that year as computed under section 1(i) of this Act bears to $600'' is $1,117 for months in calendar year 1996;

4. The amount described in section 3 of the Act as ''2.5 times the monthly compensation base'' is $2,162.50 for base year (calendar year) 1996;

5. The amount described in section 4(a–2)(i)(A) of the Act as ''2.5 times the monthly compensation base'' is $2,162.50 with respect to disqualifications ending in calendar year 1996;

6. The maximum daily benefit rate under section 2(a)(3) of the Act is $36 with respect to days of unemployment and days of sickness in registration periods beginning after June 30, 1996.

DATES: The determinations made in notices (1) through (5) are effective January 1, 1996. The determination made in notice (6) is effective for registration periods beginning after June 30, 1996.

ADDRESSES: Secretary to the Board, Railroad Retirement Board, 844 Rush Street, Chicago, Illinois 60611–2092.

FOR FURTHER INFORMATION CONTACT: Timothy H. Hogueisson, Bureau of the Actuary, Railroad Retirement Board, 844 Rush Street, Chicago, Illinois 60611–2092, telephone (312) 751–4789.

SUPPLEMENTARY INFORMATION: The RRB is required by section 12(r)(3) of the Railroad Unemployment Insurance Act (Act) (45 U.S.C. 362(r)(3)) as amended by Public Law 100–647, to publish by December 11, 1995, the computation of the calendar year 1996 monthly compensation base (section 1(i) of the Act) and amounts described in sections 1(k), 2(c), 3 and 4(a–2)(i)(A) of the Act which are related to changes in the monthly compensation base. Also, the RRB is required to publish, by June 11, 1996, the maximum daily benefit rate under section 2(a)(3) of the Act for days of unemployment and days of sickness in registration periods beginning after June 30, 1996.

Monthly Compensation Base

For years after 1988, section 1(i) of the Act contains a formula for determining the monthly compensation base. Under the prescribed formula, the monthly compensation base increases by approximately two-thirds of the growth in average national wages. The monthly compensation base for months in calendar year 1996 shall be equal to the greater of (a) $600 or (b) $600 [1+{(A − 37,800)/56,700}], where A equals the amount of the applicable base with respect to tier 1 taxes for 1996 under section 3231(e)(2) of the Internal Revenue Code of 1986. Section 1(i) further provides that if the amount so determined is not a multiple of $5, it shall be rounded to the nearest multiple of $5.

The calendar year 1996 tier 1 tax base is $62,700. Subtracting $37,800 from $62,700 produces $24,900. Dividing $24,900 by $56,700 yields a ratio of 0.43915344. Adding one gives 1.43915344. Multiplying $600 by the amount 1.43915344 produces the amount of $863.49, which must then be rounded to $865. Accordingly, the monthly compensation base is determined to be $865 for months in calendar year 1996.

Amounts Related to Changes in Monthly Compensation Base

For years after 1988, sections 1(k), 2(c), 3 and 4(a–2)(i)(A) of the Act contain formulas for determining amounts related to the monthly compensation base.

Under section 1(k), remuneration earned from employment covered under the Act cannot be considered subsidiary remuneration if the employee's base year compensation is less than 2.5 times the monthly compensation base for months in such base year. Multiplying 2.5 by the calendar year 1996 monthly compensation base of $865 produces $2,162.50. Accordingly, the amount determined under section 1(k) is $2,162.50 for calendar year 1996.

Under section 2(c), the maximum amount of normal benefits paid for days of unemployment within a benefit year and the maximum amount of normal benefits paid for days of sickness within a benefit year shall not exceed an employee's compensation in the base year. In determining an employee's base year compensation, any money remuneration in a month not in excess of an amount that bears the same ratio to $775 as the monthly compensation base for that year bears to $600 shall be taken into account.

The calendar year 1996 monthly compensation base is $865. The ratio of $865 to $600 is 1.44166667. Multiplying 1.44166667 by $775 produces $1,117. Accordingly, the amount determined under section 2(c) is $1,117 for months in calendar year 1996.

Under section 3, an employee shall be a ''qualified employee'' if his/her base year compensation is not less than 2.5 times the monthly compensation base for months in such base year. Multiplying 2.5 by the calendar year 1996 monthly compensation base of $865 produces $2,162.50. Accordingly, the amount determined under section 3 is $2,162.50 for calendar year 1996.

Under section 4(a–2)(i)(A), an employee who leaves work voluntarily without good cause is disqualified from receiving unemployment benefits until he has been paid compensation of not less than 2.5 times the monthly compensation base for months in the calendar year in which the disqualification ends. Multiplying 2.5 by the calendar year 1996 monthly compensation base of $865 produces $2,162.50. Accordingly, the amount determined under section 4(a–2)(i)(A) is $2,162.50 for calendar year 1996.

Maximum Daily Benefit Rate

Section 2(a)(3) contains a formula for determining the maximum daily benefit rate for registration periods beginning after June 30, 1989, and after each June 30 thereafter. Under the prescribed formula, the maximum daily benefit rate increases by approximately two-thirds of the growth in average national wages. The maximum daily benefit rate for registration periods beginning after June 30, 1996, shall be equal to the greater of (a) $30 or (b) $25 [1+{(A − 600)/900}], where A equals the applicable base with respect to tier 1 taxes under section 3231(e)(2) of the Internal Revenue Code of 1986 divided by 60, with the quotient rounded down to the nearest multiple of $100. Section 2(a)(3) further provides that if the amount so computed is not a multiple of $1, it shall be rounded to the nearest multiple of $1.

The calendar year 1996 tier 1 tax base is $62,700. Dividing $62,700 by 60 yields $1,045. This amount is rounded down to $1,000, the nearest multiple of $100. Subtracting $600 from $1,000 produces $400. The ratio of $400 to $900 is 0.44444444. Adding 1 produces 1.44444444. Multiplying $25 by 1.44444444 produces $36.11, which must then be rounded to $36. Accordingly, the maximum daily benefit rate for days of unemployment and days of sickness beginning in registration

periods after June 30, 1996, is determined to be $36.

Dated: October 26, 1995.

By Authority of the Board.

Beatrice Ezerski,

Secretary to the Board.

[FR Doc. 95–27223 Filed 11–1–95; 8:45 am]

BILLING CODE 7905–01–P

SECURITIES AND EXCHANGE COMMISSION

[Release No. 34–36430; File No. SR–GSCC–95–03]

Self-Regulatory Organizations; Government Securities Clearing Corporation; Notice of Filing of a Proposed Rule Change Seeking Authority To Release Clearing Data Relating to Participants to the National Securities Clearing Corporation's Collateral Management Service and Other Parties

October 27, 1995.

Pursuant to section 19(b)(1) of the Securities Exchange Act of 1934 (''Act''),[1] notice is hereby given that on August 28, 1995, the Government Securities Clearing Corporation (''GSCC'') filed with the Securities and Exchange Commission (''Commission'') the proposed rule change (File No. SR–GSCC–95-03) as described in Items I, II, and III below, which items have been prepared primarily by GSCC. On September 13, 1995, GSCC filed an amendment to the proposed rule change to make a technical correction.[2] The Commission is publishing this notice to solicit comments on the proposed rule change from interested persons.

I. Self-Regulatory Organization's Statement of the Terms of Substance of the Proposed Rule Change

The purpose of the proposed rule change is to modify GSCC's rules to authorize the release of clearing data relating to GSCC's participants to the National Securities Clearing Corporation's (''NSCC'') Collateral Management Service (''CMS'')[3] and to other parties.

II. Self-Regulatory Organization's Statement of the Purpose of, and Statutory Basis for, the Proposed Rule Change

In its filing with the Commission, GSCC included statements concerning the purpose of and basis for the proposed rule change and discussed any comments that it received on the proposed rule change. The text of these statements may be examined at the places specified in Item IV below. GSCC has prepared summaries, set forth in sections (A), (B), and (C) below, of the most significant aspects of such statements.[4]

(A) Self-Regulatory Organization's Statement of the Purpose of, and Statutory Basis for, the Proposed Rule Change

The proposal will amend GSCC Rule 1 and GSCC Rule 29 to enable GSCC to participate in NSCC's CMS.[5] GSCC Rule 1 (''Definitions'') will be amended by adding the term ''CFTC-Recognized Clearing Organization'' and to define it as ''a clearing organization that is affiliated with, or designed by, a contracts market or markets trading specific futures products, and is under the oversight of the Commodity Futures Trading Commission.'' The term ''Collateral Management Service'' also will be added and defined as ''the collateral management information-sharing service operated by the National Securities Clearing Corporation.''

GSCC Rule 29 (''Release of Clearing Data'') will be amended to permit GSCC to release clearing data to CFTC-Recognized Clearing Organizations and otherwise to NSCC solely in connection with NSCC providing its CMS.[6] Section 4 of Rule 29 will be amended to clarify that the term ''Clearing Data'' will include other data in addition to transaction date that is received by GSCC in the clearance and/or settlement process.

GSCC believes the proposed rule change is consistent with Section 17A of the Act and the rules and regulations thereunder because the rule proposal should help to safeguard securities and funds in its custody or control or for which it is responsible.

(B) Self-Regulatory Organization's Statement on Burden on Competition

GSCC does not believe that the proposed rule change will impact or impose a burden on competition.

(C) Self-Regulatory Organization's Statement on Comments on the Proposed Rule Change Received From Members, Participants, or Others

No written comments relating to the proposed rule change have been solicited or received. GSCC will notify the Commission of any written comments received by GSCC.

III. Date of Effectiveness of the Proposed Rule Change and Timing for Commission Action

Within thirty-five days of the date of publication of this notice in the Federal Register or within such longer period (i) As the Commission may designate up to ninety days of such date if it finds such longer period to be appropriate and publishes its reasons for so finding or (ii) as to which GSCC consents, the Commission will:

(a) By order approve such proposed rule change, or

(b) Institute proceedings to determine whether the proposed rule change should be disapproved.

IV. Solicitation of Comments

Interested persons are invited to submit written data, views, and arguments concerning the foregoing. Persons making written submissions should file six copies thereof with the Secretary, Securities and Exchange Commission, 450 Fifth Street NW., Washington, DC 20549. Copies of the submission, all subsequent amendments, all written statements with respect to the proposed rule change that are filed with the Commission, and all written communications relating to the proposed rule change between the Commission and any person, other than those that may be withheld from the public in accordance with the provisions of 5 U.S.C. 552, will be available for inspection and copying in the Commission's Public Reference Section, 450 Fifth Street, NW., Washington, DC 20549. Copies of such filing will also be available for inspection and copying at the principal office of GSCC. All submissions should refer to the file number SR–GSCC–95–03 and should be submitted by November 24, 1995.

For the Commission by the Division of Market Regulation, pursuant to delegated authority.[7]

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[1] 15 U.S.C. 78s(b)(1) (1988).

[2] Letter from Jeffrey F. Ingber, General Counsel and Secretary, GSCC, to Peter R. Geraghty, Division of Market Regulation, Commission (September 13, 1995).

[3] *Infra* note 5.

[4] The Commission has modified the text of the summaries submitted by GSCC.

[5] Generally, NSCC's CMS will provide participating participants and clearing agencies with access to information regarding participating participants' clearing fund, margin, and other similar requirements and deposits at participating clearing agencies. For a complete description of the CMS, refer to Securities Exchange Act Release No. 36091 (August 10, 1995), 60 FR 42931 [File No. SR–NSCC–95–06] (order approving NSCC's CMS).

[6] Section 2(a) of Rule 29 already permits GSCC to release clearing data to other self-regulatory organizations such as NSCC that have regulatory authority over a GSCC member. The purpose of new Section 2(b) is to make explicit GSCC's authority to release clearing data to NSCC for its CMS.

[7] 17 CFR 200.30–3(a)(12) (1994).

Margaret H. McFarland,
Deputy Secretary.
[FR Doc. 95–27236 Filed 11–1–95; 8:45 am]
BILLING CODE 8010–01–M

[Release No. 34–36431; File No. SR–MBSCC–95–05]

Self-Regulatory Organizations; MBS Clearing Corporation; Order Approving a Proposed Rule Change Authorizing the Release of Clearing Data Relating to Participants

October 27, 1995.

On June 28, 1995, the MBS Clearing Corporation (''MBSCC'') filed with the Securities and Exchange Commission (''Commission'') a proposed rule change (File No. SR–MBSCC–95–05) pursuant to Section 19(b)(1) of the Securities Exchange Act of 1934 (''Act'').[1] On July 24, 1995, MBSCC filed an amendment to the proposed rule change.[2] Notice of the proposal was published in the Federal Register on August 24, 1995.[3] No comment letters were received. For the reasons discussed below, the Commission is approving the proposed rule change.

I. Description of the Proposal

The proposed rule change modifies Article V of MBSCC's Rules by adding a new Rule 14 concerning the release of data relating to participants' clearance and settlement activity. MBSCC receives transaction data and other data relating to its participants in the normal course of its business. The rule change sets forth MBSCC's obligation to preserve its participants' rights with respect to such data and the conditions under which MBSCC will disclose such data.

The rule change permits MBSCC to disclose such data to regulatory organizations, self-regulatory organizations, clearing organizations affiliated with or designated by contract markets trading specific futures products under the oversight of the Commodity Futures Trading Commission, and others under certain conditions. The rule change also provides that, absent valid legal process or as provided for elsewhere in Rule 14, MBSCC will only release clearing data relating to a particular participant to such participant upon its written request.[4] Furthermore, the rule provides that MBSCC is not prevented from releasing clearing data to parties other than those discussed above provided that such data be in format that does not disclose proprietary and/or confidential financial, operational, or trading data of a particular participant or groups of participants. Finally, the rule change also defines ''clearing data'' to mean transaction and other data which is received by MBSCC in the clearance and/or settlement process or such reports or summaries which may be produced as a result of processing such data.

The rule change facilitates MBSCC's participation in the National Securities Clearing Corporation's (''NSCC'') Collateral Management Service (''CMS'')[5] because it enables MBSCC to provide information regarding MBSCC's participants fund, including excess or deficit amounts, and comprehensive data on the collateral deposited in the participants fund to NSCC for inclusion in NSCC's CMS. Participants of MBSCC that desire access to the CMS data are required to execute a CMS application. The executed CMS application will constitute a participant's written request required under MBSCC's new Rule 14 to Article V to authorize MBSCC to release the participant's clearing data to that participant.[6]

II. Discussion

Section 17A(b)(3)(F) of the Act requires that the rules of a clearing agency be designed to assure the safeguarding of securities and funds which are in the custody or control of the clearing agency or for which it is responsible.[7] As discussed below, the Commission believes the proposed rule change is consistent with MBSCC's obligation under Section 17A(b)(3)(F) because the proposal sets forth MBSCC's responsibilities and obligations with regard to releasing participants' clearing data. MBSCC's new rule sets forth specific procedures that MBSCC and a participant must comply with before that participant's clearing data will be released for purposes such as participation in NSCC's CMS. MBSCC's and its participants' participation in NSCC's CMS should help MBSCC and other clearing agencies to better monitor clearing fund, margin, and other similar required deposits that protect a clearing agency against loss should a member default on its obligations to the clearing agency.[8]

III. Conclusion

On the basis of the foregoing, the Commission finds that the proposal is consistent with the requirements of Section 17A(b)(3)(F) of the Act and the rules and regulations thereunder.

It is therefore ordered, pursuant to Section 19(b)(2) of the Act, that the proposed rule change (File No. SR–MBSCC–95–05) be, and hereby is, approved.

For the Commission by the Division of Market Regulation, pursuant to delegated authority.[9]

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[1] 15 U.S.C. 78s(b)(1) (1988).

[2] Letter from Anthony H. Davidson, MBSCC, to Peter R. Geraghty, Division of Market Regulation, Commission (July 21, 1995).

[3] Securities Exchange Act Release No. 36107 (August 16, 1995), 60 FR 44092.

[4] As a self-regulatory organization, MBSCC currently is permitted without obtaining a participant's written authorization to cooperate and share data with other regulatory or self-regulatory organizations for regulatory purposes.

[5] Generally, NSCC's CMS will provide participating participants and clearing agencies with access to information regarding participating participants' clearing fund, margin, and other similar requirements and deposits at participating clearing agencies. For a complete description of the CMS, refer to Securities Exchange Act Release No. 36091 (August 10, 1995), 60 FR 42931 [File No. SR–NSCC–95–06] (order approving the CMS).

[6] A separate CMS agreement between MBSCC and NSCC sets forth MBSCC's and NSCC's authorizations and obligations to collect and provide information relating to the participants' clearing fund and margin requirements and deposits.

[7] 15 U.S.C. 78q–1(b)(3)(F) (1988).

[8] Although MBSCC currently does not have any cross-guarantee agreements or arrangements with other clearing agencies, NSCC's CMS will be especially beneficial to those participating clearing entities that have executed cross-guaranty agreements or have other cross-guarantee arrangements. The Commission supports the use of cross-guaranty agreements and other similar arrangements among clearing agencies as a method of reducing clearing agencies' risk of loss due to a common participant's default and encourages MBSCC to explore such agreements or arrangements.

Currently, the Depository Trust Company (''DTC'') and NSCC are the only clearing agencies registered with the Commission that have executed a cross-guaranty agreement. The agreement provides that in the event of a default of a common member, any resources remaining after the failed common member's obligations to the guaranteeing clearing agency have been satisfied will be made available to the other clearing agency. The guaranty is not absolute but rather is limited to the extent of the resources relative to the failed member remaining at the guaranteeing clearing agency. The principal resources will be the failed member's settlement net credit balances and deposits to the clearing agencies' clearing funds. For a complete description of DTC's and NSCC's agreement, refer to Securities Exchange Act Release No. 33548 (January 31, 1994), 59 FR 5638 [File Nos. SR–DTC–93–08 and SR–NSCC–93–07].

The Midwest Securities Trust Company (''MSTC'') and Midwest Clearing Corporation (''MCC'') and the Philadelphia Depository Trust Company (''Philadep'') and the Stock Clearing Corporation of Philadelphia (''SCCP'') each have cross-guarantee arrangements with their related affiliate. Pursuant to Section 3, Rule 2, Article VI of MSTC's Rules, a defaulting participant's obligations at MSTC or MCC will be discharged by application of that participant's deposits at either clearing agency if that participant is a common member to both clearing agencies. MCC's Rules contain a similar provision. Similarly, pursuant to Section 4, Rule 4 of SCCP's Rules, SCCP will make available any portion of a defaulting participant's contribution to its participants fund to offset a loss suffered by Philadep by reason of that participant's default. Philadep's Rules contain an identical provision.

[9] 17 CFR 200.30–3(a)(12) (1994).

Margaret H. McFarland,

Deputy Secretary.

[FR Doc. 95–27237 Filed 11–1–95; 8:45 am]

BILLING CODE 8010–01–M

SMALL BUSINESS ADMINISTRATION

[License No. 02/02–0563]

Notice of Issuance of a Small Business Investment Company License

On July 6, 1995, a notice was published in the Federal Register (60 FR 35352) stating that an application had been filed by Sixty Wall Street SBIC Fund, L.P., 60 Wall Street, New York, New York 10260 with the Small Business Administration (SBA) pursuant to Section 107.102 of the Regulations governing small business investment companies (13 C.F.R. 107.102 (1994)) for a license to operate as a small business investment company.

Interested parties were given until close of business August 5, 1995 to submit their comments to SBA. No comments were received.

Notice is hereby given that, pursuant to Section 301(c) of the Small Business Investment Act of 1958, as amended, after having considered the application and all other pertinent information, SBA issued License No. 02/02–0563 on August 25, 1995 to Sixty Wall Street SBIC Fund, L.P. to operate as a small business investment company.

The Licensee has initial private capital of $2.5 million, and Mr. David Cromwell will manage the fund. The capital of the Licensee is owned initially by J.P. Morgan Capital Corporation. With the exception of this entity, no one investor is expected to own more than 10% of the partnership.

(Catalog of Federal Domestic Assistance Program No. 59.011, Small Business Investment Companies)

Dated: October 26, 1995.

Don A. Christensen,

Associate Administrator for Investment.

[FR Doc. 95–27247 Filed 11–1–95; 8:45 am]

BILLING CODE 8025–01–P

DEPARTMENT OF STATE

[Public Notice No. 2277]

Shipping Coordinating Committee, Subcommittee on Ocean Dumping; Notice of Meeting

The Subcommittee on Ocean Dumping of the Shipping Coordinating Committee will hold an open meeting on November 17, 1995 from 1:00 p.m. to 3:00 p.m. to obtain public comment on the issues to be addressed December 4–8, 1995, at the Eighteenth Consultative Meeting of the Contracting Parties to the London Convention of 1972, which regulates ocean dumping. The meeting will also review the Eighteenth Scientific Group Meeting held in July 1995 and the Third Amendment Conference held in April 1995.

The meeting will be held at the Environmental Protection Agency, Waterside Mall, 401 M Street, S.W., Washington, D.C. 20460, in the 8th Floor Conference Room of the West Tower. Interested members of the public are invited to attend, up to the capacity of the room. Upon entry to the West Tower, participants without government identification should dial 260–8199 to obtain clearance.

For further information, please contact Mr. John Lishman, Chief, Marine Pollution Control Branch, telephone (202) 260–8448; or Bryan Wood-Thomas, Office of International Activities, telephone (202) 260–6983.

Dated: October 25, 1995.

Richard T. Miller,

Executive Secretary, Shipping Coordinating Committee.

[FR Doc. 95–27147 Filed 11–1–95; 8:45 am]

BILLING CODE 4710–09–M

DEPARTMENT OF TRANSPORTATION

Federal Aviation Administration

[Docket No. 28371]

Study of FAA Regulation and Certification Capabilities

AGENCY: Federal Aviation Administration (FAA) DOT.

ACTION: Notice of Study and Request for Comments.

SUMMARY: On July 13, 1995, the Federal Aviation Administration initiated Challenge 2000, a comprehensive review of the FAA's safety oversight mission. The purpose of Challenge 2000 is to position the Agency to continue providing effective safety oversight in the face of technological advances and other changes in the aviation operating environment. An independent management consultant is undertaking a review of the FAA's regulation, certification, and enforcement capabilities and plans to make recommendations for appropriate actions. This notice provides an opportunity for the public to participate in this effort and comment on the future design and goal of FAA's regulation and certification functions.

DATES: Comments must be received on or before December 15, 1995.

ADDRESSES: Send or deliver comments in triplicate to: Federal Aviation Administration, Office of Chief Counsel, Attention: Rules Docket (AGC–200), Docket 28371, 800 Independence Avenue, SW, Washington, DC 20591. Comments must be marked Docket No. 28371. They will be on display in Room 915G weekdays between 8:30 a.m. and 5:00 pm., except on Federal holidays.

FOR FURTHER INFORMATION CONTACT: Kris Burnham, Office of Aviation Policy and Plans, Federal Aviation Administration, 800 Independence Avenue, SW, Washington, DC 20591, (202) 267–7947.

SUPPLEMENTARY INFORMATION:

Background

Secretary of Transportation Federico Pena and FAA Administrator David Hinson have committed to a safety goal of zero accidents for the aviation community. Consistent with this Zero-accident goal, the FAA has initiated Challenge 2000, a comprehensive review of the agency's safety oversight capabilities. The review and subsequent report are being undertaken by an independent management consultant. The FAA will also receive input from its Research, Engineering, and Development Advisory Committee (RE&D Committee), whose membership represents various parts of the aviation industry. A committee of AA executives is overseeing the effort.

In the course of its review, the management consultant is studying the structure of the aviation industry, current and anticipated risks associated with air transportation, the structure and approach to safety used by aviation authorities in other countries and in other industries, and the FAA's safety organization. It is discussing pertinent issues with aviation organizations from government and the private sector. The RE&D Committee is evaluating the FAA's relationship to the technology environment and the agency's ability to respond strategically to rapid technological changes. A team of senior FAA officials is responsible for assisting the consultant and the RE&D Committee by providing essential expertise and perspective on the FAA and its current practices.

Comments Invited

The FAA invites public comments to supplement the data gathered by our management consultant. Taken together, the information will help the agency appropriately adjust its regulation, certification, and enforcement capabilities to respond to recent and expected changes in the aviation

operating environment. Unlike recent regulatory reviews, this Notice does not seek suggestions on specific rules that commenters believe should be changed or altered. Rather, comments should address general policies, procedures, and the focus of FAA's mission and resources with respect to safety oversight.

The following are examples of questions relevant to Challenge 2000 and on which the FAA seeks comments. This list does not necessarily encompass all issues of interest, and commenters are invited to submit information on additional issues relevant to this review.

Do you believe that the FAA's regulation, certification, and enforcement functions currently provide an adequate level of safety oversight? If not, why not? Are there safety oversight services that should be provided by the FAA that currently are not? What changes in statutory authority, resources, or process are needed to provide adequate in the current and future environment? Are the FAA's regulation and certification processes appropriate to allow the aviation community to reap the benefits of modern technology in a timely manner?

What significant changes do you anticipate in the aviation environment in the next decade that may require revision, termination, or addition to current FAA safety oversight (e.g., technological advances, changing business practices, impact of international competition)? When possible, please provide specific examples.

Based on the anticipated changes, do you believe that the FAA needs to change the manner in which it (1) regulates the industry, (2) enforces rules, or (3) certificates airmen, aircraft, or other elements of the airport and airway system? Where appropriate, please comment on the adequacy of existing statutory authority, anticipated need for process changes, the timing of services provided, and the effectiveness of the outcome.

In the coming decade, do you believe that FAA should devote fewer or greater resources than it currently does to (1) regulation, (2) enforcement, and (3) certification? Why?

Issued in Washington, DC, on October 27, 1995.

Barry L. Valentine,

Assistant Administrator for Policy, Planning, and International Aviation.

[FR Doc. 95–27229 Filed 11–1–95; 8:45 am]

BILLING CODE 4910–13–M

Environmental Impact Statement on the Effects of the Implementation of the Expanded East Coast Plan Over the State of New Jersey—Record of Decision

AGENCY: Federal Aviation Administration (FAA), DOT.

ACTION: Issuance of the Record of Decision (ROD) for FAA's Environmental Impact Statement (EIS), ''Effects of Implementation of the Expanded East Coast Plan (EECP) Over the State of New Jersey''.

SUMMARY: Notice is hereby given in accordance with the National Environmental Policy Act (NEPA) and FAA Order 1050.1D, Policies and Procedures for Considering Environmental Impacts, that FAA has decided to adopt the preferred alternative with the Solberg Mitigation Proposal identified in its final EIS (FEIS), ''Effects of Implementation of the Expanded East Coast Plan Over the State of New Jersey''. This FEIS was made available to the public on July 28, 1995. It was prepared in accordance with Section 9119 of the Aviation Safety and Capacity Expansion Act of 1990, Title IX Subtitle B of Public Law 101–508.

Based on a review of the administrative record, including the FEIS, it is the FAA's final determination that continuation of existing EECP aircraft routes, airspace delegation and air traffic control procedures as modified by the Solberg Mitigation Proposal described in Section 7 of the ROD, and identified in the FEIS as the preferred alternative, is approved. This alternative was also identified as the environmentally preferable alternative in the FEIS.

FOR FURTHER INFORMATION CONTACT: Mr. William J. Marx, Acting Deputy Program Director for Air Traffic System Management, ATM–2, Federal Aviation Administration, 800 Independence Ave., S.W., Washington, DC 20591.

SUPPLEMENTARY INFORMATION: Any person may obtain a copy of the ROD by submitting a request to the FAA contact identified above. Appendix A of the ROD contains responses to public comments on the FEIS.

The ROD will also be available for review at the following public libraries:

Teaneck Public Library, 840 Teaneck Road, Teaneck, NJ 07868
Newark Public Library, 5 Washington Street, P.O. Box 630, Newark, NJ 01701–0830
Parsippany-Troy Hills Free Public Library, P.O. Box 5303, Parsippany, NJ 07054
Piscataway Township Free Public Library, John F. Kennedy Memorial Library, 500 Hoes Lane, Piscataway, NY 08854
Cherry Hill Free Public Library, 100 Kings Highway North, Cherry Hill, NJ 08034
Jersey City Public Library, 472 Jersey Ave., Jersey City, NJ 07302–3499, Attn: Directors Office
Staten Island, New York Public Library, St. George Library Center, 5 Central Place, Staten Island, NY 10301
Camden Free Public Library, 616 Broadway, Camden, NJ 08103
Vineland Free Public Library, 1058 E. Landis Ave., Vineland, NJ 08360
Middletown Township Public Library, 55 New Monmouth Road, Middletown, NJ 07748
Free Public Library of the City of Trenton, 120 Academy Street, Trenton, NJ 08607–2448
Ridgewood Public Library, 125 North Maple Ave., Ridgewood, NJ 07450–3288
Free Public Library of Woodbridge, George Frederick Plaza, Woodbridge, NJ 07195, Attn: Reference Desk
Elizabeth Public Library, 11 S. Broad Street, Elizabeth, NJ 07201
Paterson Free Public Library, Danforth Memorial Library, 250 Broadway, Paterson, NJ 07501
Cranford Public Library, 224 Walnut Ave., Cranford, NJ 07016
Rochelle Park Public Library, 405 Rochelle Ave., Rochelle Park, NJ 07882
Runnemede Public Library, Broadway and Black Horse Pike, P.O. Box 119, Runnemede, NJ 08078
Tinton Falls Public Library, 684 Tinton Ave., Tinton Falls, NJ 07724
New Jersey State Library, Department of Education, 185 W. State Street, Trenton, NJ 08825–0520
Joint Free Public Library of Morristown and Morris Township, 1 Miller Road, Morristown, NJ 07960
Cape May County Library, Mechanic Street, Cay May Courthouse, NJ 08210
Ocean County Library, 101 Washington Street, Toms River, NJ 08753
Hunterdon County Library, Route 12, Flemington, NJ 08822
Sussex County Library, RD–3, Box 170, Route 655, Homestead Road, Newton, NJ 07860
Warren County Library, Court House Annex, Belevedre, NJ 07823, Attn: Reference Day Dept.
Atlantic City Library, 1 North Tennessee Ave., Atlantic City, NJ 08401
Gloucester County Library, 200 Holly Dell Drive, Sewell, NJ 08080
Somerset County Library, P.O. Box 6700, Bridgewater, NJ 08807
Salem Library, Broadway, Salem, NJ 08079
Burlington County Library, 1257 Westwoodlane Road, Mt. Holly, NJ 08060

Controversy about the effects of implementation of the EECP over New Jersey led to a statutory requirement, Section 9119 of the Aviation Safety and Capacity Expansion Act of 1990, Title IX Subtitle B of Public Law 101–508, for the FAA to prepare an EIS on these effects. FAA was also directed to provide a report to Congress (RTC) with

recommendations for modifications to the EECP or an explanation of why such modification is not appropriate. The RTC is being transmitted to Congress concurrently with the release of the ROD.

Although practicable mitigation measures other than the Solberg Mitigation Proposal are not apparent at this time, the FAA's Eastern Region intends to work with affected communities to explore opportunities for mitigation of aircraft noise in the New York/New Jersey metropolitan area. Future studies of air traffic routes and procedures, outside the scope of the EIS, in the New York metropolitan area will be needed for aeronautical and environmental reasons, as noted in Chapter 2, Section 2.5 of the FEIS.

Issued in Washington, D.C. on October 30, 1995.

William J. Marx,

Acting Deputy Program Director for Air Traffic System Management.

[FR Doc. 95–27211 Filed 10–31–95; 8:45 am]

BILLING CODE 4910–13–M

R,E&D Advisory Committee Subcommittee on Human Factors

AGENCY: Federal Aviation Administration (FAA), DOT.

ACTION: Notice of meeting cancellation.

SUMMARY: The FAA is issuing this notice to advise the public that the November 1 meeting of the R,E&D Advisory Committee Subcommittee on Human Factors (60 FR 52950, October 11, 1995) has been canceled. A date for rescheduling the meeting has not yet been identified.

FOR FURTHER INFORMATION CONTACT: Ms. Lianñe Gayle, Federal Aviation Administration (AAR–100), 800 Independence Avenue, SW, Washington, DC 20591. Telephone: (202) 267–3645; Fax. (202) 267–5797.

Issued in Washington, DC on October 30, 1995.

Mark A. Hofmann,

Designated Federal Official, R,E&D Human Factors Subcommittee.

[FR Doc. 95–27230 Filed 11–1–95; 8:45 a.m.]

BILLING CODE 4910–13–M

National Highway Traffic Safety Administration

Safety Performance Standards, Research and Safety Assurance Programs Meetings

AGENCY: National Highway Traffic Safety Administration.

ACTION: Notice of NHTSA Industry Meetings.

SUMMARY: This notice announces a public meeting at which NHTSA will answer questions from the public and the automobile industry regarding the agency's vehicle regulatory, safety assurance and other programs. In addition, NHTSA will hold a separate public meeting to describe and discuss specific research and development projects.

DATES: The Agency's regular, quarterly public meeting relating to its vehicle regulatory, safety assurance and other programs will be held on December 20, 1995, beginning at 9:30 a.m. and ending at approximately 12:30 p.m. Questions relating to the above programs must be submitted in writing by December 11, 1995, to the address shown below. If sufficient time is available, questions received after the December 11 date may be answered at the meeting. The individual, group or company submitting a question(s) does not have to be present for the question(s) to be answered. A consolidated list of the questions submitted by December 11, 1995, and the issues to be discussed will be transmitted to interested persons by December 14, 1995, and will be available at the meeting. Also, the agency will hold a second public meeting on December 19, devoted exclusively to a presentation of research and development programs. This meeting will begin at 1:30 p.m. and end at approximately 5:00 p.m. That meeting is described more fully in a separate announcement.

After the December meetings, the next research and development and vehicle regulatory and other programs will be held on March 12 and 13, 1996.

ADDRESSES: Questions for the December 20, NHTSA Technical Industry Meeting, relating to the agency's vehicle regulatory and safety assurance programs, should be submitted to Barry Felrice, Associate Administrator for Safety Performance Standards, NPS–01, National Highway Traffic Safety Administration, Room 5401, 400 Seventh Street, SW., Washington, DC 20590. The meeting will be held at the Hilton Suites—Detroit Metro Airport, Michigan A & B Room, 8600 Wickham Road, Romulus, Michigan 48174.

SUPPLEMENTARY INFORMATION: NHTSA will hold this regular, quarterly meeting to answer questions from the public and the regulated industries regarding the agency's vehicle regulatory, safety assurance and other programs. Questions on aspects of the agency's research and development activities that relate to ongoing regulatory actions should be submitted, as in the past, to the agency's Safety Performance Standards Office. The purpose of this meeting is to focus on those phases of NHTSA activities which are technical, interpretative or procedural in nature. Transcripts of these meetings will be available for public inspection in the NHTSA Technical Reference Section in Washington, DC, within four weeks after the meeting. Copies of the transcript will then be available at ten cents a page, (length has varied from 100 to 150 pages) upon request to NHTSA Technical Reference Section, Room 5108, 400 Seventh Street, SW., Washington, DC 20590. The Technical Reference Section is open to the public from 9:30 a.m. to 4:00 p.m.

We would appreciate the questions you send us to be organized by categories to help us to process the questions into agenda form more efficiently.

Sample format as follows:

I. Rulemaking
  A. Crashavoidance
  B. Crashworthiness
  C. Other Rulemakings
II. Consumer Information
III. Miscellaneous

NHTSA will provide auxiliary aids to participants as necessary. Any person desiring assistance of ''auxiliary aids'' (e.g., sign-language interpreter, telecommunications devices for deaf persons (TDDs), readers, taped texts, Brailled materials, or large print materials and/or a magnifying device), please contact Barbara Carnes on (202) 366–1810, by COB December 11, 1995.

Barry Felrice,

Associate Administrator for Safety Performance Standards.

[FR Doc. 95–27187 Filed 11–1–95; 8:45 am]

BILLING CODE 4910–59–M

Research and Special Programs Administration

[Docket No. P–95–2W; Notice 1]

Transportation of Natural Gas by Pipeline Grant of Waiver; Columbia Gas Transmission Corporation

Columbia Gas Transmission Corporation has petitioned the Research and Special Programs Administration (RSPA) for temporary waiver of a pipeline safety standard that requires plastic pipe to be installed below ground level (49 CFR 192.321(a)). The petition applies to approximately 1000 feet of 2-inch plastic pipe, which is to replace Line 778 and Line 2060 in a rural area near the town of Kirby in Greene County, Pennsylvania.

According to the petition, coal mining threatens to cause ground subsidence beneath the two existing pipelines. To avoid possible line breakage and service outage, Columbia proposes to replace these pipelines with approximately 1000 feet of plastic pipeline installed temporarily above ground. After necessary state and local permits are obtained to authorize ditching for burial, Columbia plans to bury the plastic pipeline 3 feet below ground within 6 to 8 months after construction.

The petition explains that the above ground plastic pipeline would present little risk to the public because the area is rural, with no dwellings within half a mile of the pipeline. Also, line markers are to be spaced at 100-foot intervals, and gas warning tape and other suitable warnings would be installed along the pipeline route. In addition, Columbia stated it will patrol the pipeline monthly, or more frequently if necessary, to assure the integrity of the pipeline while it is above ground. Columbia further stated that it did not expect external loading or vandalism to be a problem on the pipeline, nor does it expect ultraviolet degradation during the period of exposure.

In a separate proceeding, ''Regulatory Review; Gas Pipeline Safety Standards,'' RSPA has proposed to revise § 192.321(a) to allow the installation of plastic pipe above ground under certain conditions (Docket PS–124; 57 FR 39576; Aug. 31, 1992). The proposed conditions would limit aboveground use to 30 days in places where external damage is unlikely or adequate protection is provided. In addition, the plastic pipe would have to be resistant to ultraviolet light and temperature extremes, and not have been previously used above ground.

RSPA received written comments on the proposal from 14 gas pipeline companies, 3 pipeline-related associations, and a state pipeline safety agency. No one objected to the concept of temporary aboveground use. In fact, many commenters suggested that the proposal did not go far enough, asserting that permanent aboveground installations should be allowed when plastic pipe is encased in steel conduit. Others argued that a 30-day limit on temporary usage would be too brief in view of the time it may take to construct a permanent underground installation. Still other commenters argued the proposed time limit and prohibition against reinstalling aboveground plastic pipe above ground were unnecessary. They contended that commercially available plastic pipe can be exposed to ultraviolet light for at least 2 years without degradation of material properties. These commenters suggested RSPA allow the use of plastic pipe above ground according to pipe manufacturers' recommended exposure limits.

Because RSPA has already proposed to allow the limited use of plastic pipe above ground, we believe that waiving § 192.321(a) as Columbia has proposed is appropriate. However, in view of the issue in Docket PS–124 concerning the safe period for temporary aboveground installations, we are granting the waiver on condition that the plastic pipe does not remain above ground longer than the manufacturer recommends for aboveground exposure. Given that Docket PS–124 has already afforded the public an opportunity to comment on above ground use of plastic pipe, we believe further notice and opportunity to comment on the matter within the context of this waiver proceeding would be unnecessary. Therefore, this waiver is granted as final without further public notice.

For the reasons explained above, RSPA, by this order, finds that the requested waiver of § 192.321(a) is not inconsistent with pipeline safety. Therefore, effective immediately, Columbia's petition for waiver is granted, provided the installation is carried out as proposed in the petition and does not exceed the manufacturer's recommended maximum period of exposure.

Authority: 49 U.S.C. 6018(c); and 49 CFR 1.53.

Issued in Washington, D.C. on October 27, 1995.

Richard B. Felder,

Associate Administrator for Pipeline Safety.

[FR Doc. 95–27188 Filed 11–1–95; 8:45 am]

BILLING CODE 4910–60–P

Saint Lawrence Seaway Development Corporation Advisory Board

Notice of Meeting

Pursuant to section 10(a)(2) of the Federal Advisory Committee Act (Pub. L. 92–463; 5 U.S.C. App. I) notice is hereby given of a meeting of the Advisory board of the Saint Lawrence Seaway Development Corporation, to be held at 11:00 a.m., November 9, 1995, at the Corporation's Administration Building, 180 Andrews Street, Massena, New York 13662. The agenda for this meeting will be as follows: Opening Remarks; Consideration of Minutes of Past Meeting; Review of Programs; Business; and Closing Remarks.

Attendance at meeting is open to the interested public but limited to the space available. With the approval of the Acting Administrator, members of the public may present oral statements at the meeting. Persons wishing further information should contact not later than November 7, 1995, Marc C. Owen, Advisory Board Liaison, Saint Lawrence Seaway Development Corporation, 400 Seventh Street, S.W., Washington, D.C. 20590; 202–366–0091.

Any member of the public may present a written statement to the Advisory board at any time.

Issued at Washington, D.C. on October 26, 1995.

Marc C. Owen,

Advisory Board Liaison.

[FR Doc. 95–27220 Filed 11–1–95; 8:45 am]

BILLING CODE 4910–61–M

DEPARTMENT OF THE TREASURY

Treasury Advisory Committee on Commercial Operations of the U.S. Customs Service

AGENCY: Department Offices, Treasury.

ACTION: Notice of meeting.

SUMMARY: This notice announces the date and time of the next meeting and the agenda for consideration by the Treasury Advisory Committee on Commercial Operations of the U.S. Customs Service.

DATES: The next meeting of the Treasury Advisory Committee on Commercial Operations of the U.S. Customs Service will be held on Friday, November 17, 1995, at 9:30 a.m. in the Stanton Room, 20th Floor, World Trade Center, Baltimore, Maryland. The duration of the meeting will be approximately three hours.

FOR FURTHER INFORMATION CONTACT: Dennis M. O'Connell, Director, Office of Tariff and Trade Affairs, Office of the Under Secretary (Enforcement), Room 4004, Department of the Treasury, 1500 Pennsylvania, NW., Washington, DC 20220. Tel.: (202) 622–0220.

SUPPLEMENTARY INFORMATION: At the November 17, 1995 session, the regular quarterly meeting of the Advisory Committee, the Committee is expected to consider the agenda items listed below.

1. FY 1995 compliance management results.

2. Review of the remote filing test and future plans.

3. Customs inbond proposal under the Customs Modernization Act.

4. Fraud detection and cargo inspection innovations.

5. Status of the Harbor Maintenance Fee (*U.S. Shoe Corp.* v. *United States,*

CIT Slip Op. 95–173 (October 25, 1995)).

The tentative agenda for the meeting may be modified prior to the meeting date. Public observers wishing to verify agenda items prior to the meeting may do so by contacting the Office of Tariff and Trade Affairs, (202) 622–0220.

The meeting is open to the public; however participation in the Committee's deliberations is limited to Committee members and Customs and Treasury Department staff. A person other than an Advisory Committee member who wishes to attend the meeting, should give advance notice by contacting Ms. Theresa Manning at (202) 622–0220 no later than November 13, 1995.

John P. Simpson,

Deputy Assistant Secretary (Regulatory, Tariff and Trade Enforcement).

[FR Doc. 95–27159 Filed 11–1–95; 8:45 am]

BILLING CODE 4810–25–M

DEPARTMENT OF VETERANS AFFAIRS

Persian Gulf Expert Scientific Committee, Notice of Charter Renewal

This gives notice under the Federal Advisory Committee Act, as amended (Pub. L. 92–463; 5 U.S.C. App.), that the Department of Veterans Affairs' Persian Gulf Expert Scientific Committee has been renewed for a 2-year period beginning October 24, 1995, through October 24, 1997.

Dated: October 25, 1995.

By Director of the Secretary.

Heyward Bannister,

Committee Management Officer.

[FR Doc. 95–27168 Filed 11–1–95; 8:45 am]

BILLING CODE 8320–01–M

Sunshine Act Meetings

Federal Register
Vol. 60, No. 212
Thursday, November 2, 1995

This section of the FEDERAL REGISTER contains notices of meetings published under the ''Government in the Sunshine Act'' (Pub. L. 94-409) 5 U.S.C. 552b(e)(3).

U.S. COMMISSION ON CIVIL RIGHTS

DATE AND TIME: Friday, November 17, 1995, 8:00 a.m.

PLACE: U.S. Commission on Civil Rights, 1201 16th Street, N.W., Auditorium (Lower Level), Washington, DC 20036.

STATUS:

Agenda

I. Approval of Agenda
II. Approval of Minutes of October 6, 1995 Meeting
III. Announcements
IV. Staff Director's Report
V. State Advisory Committee Reports
- ''Race Relations and Equal Education Opportunities at Proviso West High School'' (Illinois)
- ''Civil Rights Issues in Maine: A Briefing Summary of Hate Crimes, Racial Tensions, and Migrant/Immigrant Workers'' (Maine)
- ''Discipline in Michigan Public Schools and Government Enforcement of Equal Education Opportunity'' (Michigan)
- ''Equality Issues in South Dakota Women's Employment'' (South Dakota)

VI. State Advisory Committee Appointments for Montana, Oregon, and Utah
VII. Future Agenda Items

CONTACT PERSON FOR FURTHER INFORMATION: Barbara Brooks, Press and Communications (202) 376–8312.

Dated: October 30, 1995.

Miguel A. Sapp,

Acting Solicitor.

[FR Doc. 95–27320 Filed 10–31–95; 12:12 pm]

BILLING CODE 6335–01–M

FEDERAL DEPOSIT INSURANCE CORPORATION

Notice of Agency Meeting

Pursuant to the provisions of the ''Government in the Sunshine Act'' (5 U.S.C. 552b), notice is hereby given that at 10:14 a.m. on Monday, October 30, 1995, the Board of Directors of the Federal Deposit Insurance Corporation met in closed session to consider the following:

Matters relating to the Corporation's supervisory activities.

Matters relating to the Corporation's corporate activities.

Applications of Colonial State Bank, Freehold, New Jersey, an insured state nonmember bank, for consent to merge, under its charter and title, with Interim Sovereign Federal Savings Bank, Long Branch, New Jersey; and for consent to participate in an optional conversion transaction.

In calling the meeting, the Board determined, on motion of Vice Chairman Andrew C. Hove, Jr. Seconded by Director Eugene A. Ludwig (Comptroller of the Currency), concurred in by Mr. Kenneth F. Ryder, Jr., acting in the place and stead of Director Jonathan L. Fiechter (Acting Director, Office of Thrift Supervision), and Chairman Ricki Helfer, that Corporation business required its consideration of the matters on less than seven days' notice to the public; that no earlier notice of the meeting was practicable; that the public interest did not require consideration of the matters in a meeting open to public observation; and that the matters could be considered in a closed meeting by authority of subsections (c)(2), (c)(4), (c)(6), (c)(8), (c)(9) (A)(ii), (c)(9)(B), and (c)(10) of the ''Government in the Sunshine Act'' (5 U.S.C. 552b(c)(2), (c)(4), (c)(6), (c)(8), (c)(9)(A)(ii), (c)(9)(B), and (c)(10)).

The meeting was held in the Board Room of the FDIC Building located at 500—17th Street, N.W., Washington, D.C.

Dated: October 31, 1995.

Federal Deposit Insurance Corporation.

Robert E. Feldman,

Deputy Executive Secretary.

[FR Doc. 95–27372 Filed 10–31–95; 3:41 pm]

BILLING CODE 6714–01–M

FEDERAL DEPOSIT INSURANCE CORPORATION

Notice of Agency Meeting

Pursuant to the provisions of the ''Government in the Sunshine Act'' (5 U.S.C. 552b), notice is hereby given that at 10:03 a.m. on Monday, October 30, 1995, the Board of Directors of the Federal Deposit Insurance Corporation met in open session to consider the following matters:

Disposition of minutes of previous meetings.

Report of actions approved by an officer of the Corporation pursuant to authority delegated by the Board of Directors.

Memorandum re: Corporation's September 30, 1995 Financial Statements.

Memorandum re: Quarterly Budget Variance Summary Report.

Memorandum re: Corporation's Investment Policy.

In calling the meeting, the Board determined, on motion of Vice Chairman Andrew C. Hove, Jr., seconded by Mr. Kenneth F. Ryder, Jr., acting in the place and stead of Director Jonathan L. Fiechter (Acting Director, Office of Thrift Supervision); concurred in by Director Eugene A. Ludwig (Comptroller of the Currency), and Chairman Ricki Helfer, that Corporation business required its consideration of the matters on less than seven days' notice to the public; and that no notice of the meeting earlier than October 24 and October 26, 1995, was practicable.

The meeting was held in the Board Room on the sixth floor of the FDIC Building located At 550 17th Street N.W., Washington, D.C.

Dated: October 31, 1995.

Federal Deposit Insurance Corporation.

Robert E. Feldman,

Deputy Executive Secretary.

[FR Doc. 95–27371 Filed 10–31–95;3:41pm]

BILLING CODE 6714–01–M

FEDERAL ELECTION COMMISSION

''FEDERAL REGISTER'' NUMBER: 95–26746.

PREVIOUSLY ANNOUNCED DATE AND TIME: Thursday, November 2, 1995, at 10:00 a.m. Meeting Open to the Public.

THE FOLLOWING ITEMS WERE ADDED TO THE AGENDA:

Eligibility Report—Lyndon H. LaRouche, Jr./ Committee to Reverse the Accelerating Global Economic and Strategic Crisis: A LaRouche Exploratory Committee.

Clinton/Gore '92 Committee—Apparent Surplus (LRA #420).

DATE AND TIME: Tuesday, November 7, 1995 at 10:00 a.m.

PLACE: 999 E Street, N.W., Washington, D.C.

STATUS: This Meeting Will Be Closed to the Public.

ITEMS TO BE DISCUSSED:

Compliance matters pursuant to 2 U.S.C. § 437g.

Audits conducted pursuant to 2 U.S.C. § 437g, § 438(b), and Title 26, U.S.C.

Matters concerning participation in civil actions or proceedings or arbitration.

Internal personnel rules and procedures or matters affecting a particular employee.

PERSON TO CONTACT FOR INFORMATION:

Mr. Ron Harris, Press Officer,
Telephone: (202) 219–4155.

Delores Hardy,

Administrative Assistant.

[FR Doc. 95–27362 Filed 10–31–95; 3:40 pm]

BILLING CODE 6715–01–M

Federal Register

Thursday
November 2, 1995

Part II

Department of Education

34 CFR Part 370

Special Education and Rehabilitative Services; Client Assistance Program; Final Rule

DEPARTMENT OF EDUCATION

34 CFR Part 370

RIN 1820–AB16

Client Assistance Program

AGENCY: Department of Education.

ACTION: Final regulations.

SUMMARY: The Secretary amends the regulations governing the Client Assistance Program (CAP) to implement changes to the Rehabilitation Act of 1973 (Act) made by the Rehabilitation Act Amendments of 1992 (1992 Amendments), enacted on October 29, 1992, and the Rehabilitation Act Amendments of 1993 (1993 Amendments), enacted on August 11, 1993.

EFFECTIVE DATE: These regulations take effect December 4, 1995.

FOR FURTHER INFORMATION CONTACT: David Ziskind, U.S. Department of Education, 600 Independence Avenue SW., Room 3211, Switzer Building, Washington, DC 20202–2735. Telephone: (202) 205–5474. Individuals who use a telecommunications device for the deaf (TDD) may call the TDD number at (202) 205–9362 between 8 a.m. and 8 p.m., Eastern time, Monday through Friday.

SUPPLEMENTARY INFORMATION: The CAP is authorized by section 112 of the Act (29 U.S.C. 732). The CAP provides support to States for programs that assist clients and client applicants to secure the benefits and services available to them under the Act.

The final regulations implement changes to section 112 of the Act made by the 1992 and 1993 Amendments (Pub. L. 102–569 and Pub. L. 103–73, respectively), clarify certain program requirements, and make other changes that are needed to increase program effectiveness. More specifically, the final regulations describe the process a Governor is required to use to designate a public or private agency to conduct the CAP authorized by section 112 of the Act (i.e., the designated agency), identify the authorized activities a designated agency is required to carry out under the CAP, and specify the conditions that apply to a State and the designated agency in the operation of its CAP. The final regulations implement the requirement in the 1992 Amendments that CAPs expand the services they provide to include dissemination of information related to Title I of the Americans with Disabilities Act of 1990 (ADA), especially with regard to individuals with disabilities who have traditionally been unserved or underserved by vocational rehabilitation (VR) programs. The final regulations implement the due process requirements added by the 1992 Amendments that apply if a Governor of a State chooses to redesignate the agency designated to conduct the State's CAP. Finally, the final regulations incorporate certain provisions of the Education Department General Administrative Regulations (EDGAR).

This program supports the National Education Goal that, by the year 2000, every adult American, including individuals with disabilities, will possess the knowledge and skills necessary to compete in a global economy and exercise the rights and responsibilities of citizenship.

On October 8, 1993, the Secretary published a notice of proposed rulemaking (NPRM) for this program in the Federal Register (58 FR 52614). The major issues related to this program were discussed in the preamble to the NPRM. In general, the commenters agreed with the NPRM.

Analysis of Comments and Changes

In response to the Secretary's invitation in the NPRM, 90 parties submitted comments on the proposed regulations. An analysis follows of the comments and of the changes in the regulations since publication of the NPRM, including those changes made as a result of the Secretary's further consideration of certain issues for the purpose of reducing burden and increasing flexibility.

The comments have been grouped according to subject, with appropriate sections of the regulations referenced in parentheses. Technical and other minor changes—and suggested changes the Secretary is not legally authorized to make under the applicable statutory authority—are not addressed.

Purpose (§ 370.1(b))

Comments: One commenter recommended changing the term ''facilities'' in proposed § 370.1(b) to ''community rehabilitation programs'' to correspond to changes in the statutory language made by the 1993 Amendments. Several other commenters recommended that the same change be made in proposed § 370.4(a)(2).

Discussion: The Secretary agrees that the term ''facilities'' should be changed to correspond to the change in terminology made by the 1993 Amendments to section 112(a) of the Act.

Changes: The Secretary has changed the terms ''facility'' and ''facilities'' to ''community rehabilitation program'' and ''community rehabilitation programs,'' as appropriate, in §§ 370.1(b), 370.4(a)(3), 370.41(a)(1), and 370.42 in the final regulations.

Eligible Subgrantees (§ 370.2(e))

Comments: The Secretary received 77 comments objecting to proposed § 370.2(e), which prohibits a designated agency from contracting with an entity or individual to provide CAP services if that entity or individual provides services under the Act. Of these 77 commenters, 41 were letters from individuals who had received Client Assistance Program (CAP) services from centers for independent living (centers) in one State, 13 were from centers in that one State, and 14 were from other organizations and agencies in that one State. These commenters believed that centers should be allowed to contract with a designated agency, even though centers provide services under the Act, for a variety of reasons, including the following: housing CAP services in centers is convenient, cost-effective, and promotes maximum access to services for consumers; centers are different from other service providers because a major function of centers is to advocate and to teach individuals how to advocate for themselves; the Rehabilitation Services Administration (RSA) previously approved contracts between a designated agency and centers to provide CAP services in a State; and the prohibition on contracting with service providers in proposed § 370.2(e) has no statutory basis.

Discussion: The Secretary agrees that many clients and client applicants have been served well by centers under contract with a designated agency to provide CAP services. The Secretary also recognizes that one of the major functions of a center is to provide advocacy on behalf of individuals with severe disabilities and that this function distinguishes a center from other providers of services under the Act.

Furthermore, the Secretary acknowledges that, several years ago, RSA advised a designated agency that it was permissible to maintain its contracts with centers. RSA's decision was based on language in section 112(c)(1)(A) of the Act that provides an exemption from the requirement (in that same section of the Act) that a Governor of a State designate as the designated agency an agency that is independent of any agency that provides treatment, services, or rehabilitation to individuals under the Act. This statutory exemption from the ''independence'' requirement in section 112(c)(1)(A) of the Act permits a Governor of a State to designate, in the initial designation (i.e., the first designation by the Governor,

after February 22, 1984, of an agency to carry out the CAP), an agency that provides treatment, services, or rehabilitation to individuals with disabilities under the Act if, at any time prior to February 22, 1984, there had been an agency in the State that had both served as a designated agency and received Federal financial assistance under the Act. Because the centers in question were continuing to carry out the CAP after February 22, 1984, under contracts entered into prior to February 22, 1984, with an agency that had been designated as the State's CAP agency prior to February 22, 1984, RSA permitted the agency designated as the State's CAP agency after February 22, 1984, to continue contracting with centers to provide CAP services. Section 370.2(f) of the final regulations implements this very limited exemption to the independence requirement.

However, the Secretary also believes that, notwithstanding the limited exception for certain contracts with centers, retaining the general prohibition in § 370.2(e) against designated agencies contracting with service providers is in the best interest of the CAP and is consistent with the independence requirement of section 112(c)(1)(A) of the Act. Therefore, the Secretary is strictly limiting this exemption from the independence requirement to the circumstances that formed the basis for RSA's earlier decision to permit a designated agency to contract with centers to provide CAP services.

In addition, pursuant to new § 370.2(g)(1) of the final regulations, the designated agency remains legally responsible for the conduct of a CAP that meets all of the requirements of 34 CFR Part 370. Also, pursuant to new § 370.2(g)(2) of the final regulations, the designated agency remains legally responsible for the proper expenditure of CAP funds and shall exercise proper management of its contract to ensure that CAP funds are used in compliance with the regulations in this part and with the cost principles applicable to the designated agency. Furthermore, new § 370.2(g)(3) of the final regulations requires a designated agency that contracts to carry out the CAP to be directly involved in the day-to-day supervision of the CAP services being carried out by the contractor. This day-to-day supervision must include the direct supervision by designated agency staff of the contractor's employees who are responsible for providing CAP services.

Finally, the Secretary wishes to emphasize that the conflict of interest provisions in § 370.41 (b) and (c) apply if a designated agency contracts to carry out CAP services.

Changes: The Secretary has added a new paragraph § 370.2(f) that will allow a designated agency in a State to enter into a contract for CAP services with a center that provides treatment, services, or rehabilitation to individuals with disabilities under the Act if, on February 22, 1984, a designated agency in the State was contracting with one or more centers to provide CAP services. The Secretary also has added a new § 370.2(g) to the final regulations to reflect the conditions and responsibilities that relate to this limited contracting authority.

Eligibility for Services (§ 370.3)

Comments: One commenter recommended revising proposed § 370.3 to clarify that all individuals with disabilities seeking information about their employment rights under Title I of the ADA, 42 U.S.C. 12101–12213, may receive that information from the designated agency.

Discussion: The Secretary agrees § 370.3 should reflect the revisions to section 112 of the Act made by the 1992 Amendments that authorize the designated agency to provide information to individuals with disabilities, especially those who have traditionally been unserved or underserved by VR programs, about the services and benefits authorized under Title I of the ADA.

Changes: The Secretary has revised § 370.3 in the final regulations to clarify that all individuals with disabilities are eligible to receive information on the services and benefits available to them under Title I of the ADA. In addition, the Secretary has added a new § 370.3(b) to the final regulations to clarify that only clients and client applicants are eligible for CAP services.

Comments: One commenter asked why proposed § 370.3 excludes services under the Protection and Advocacy of Individual Rights (PAIR) program from the types of services provided under the Act that qualify an individual to receive CAP services.

Discussion: Receipt of services under the PAIR program authorized by section 509 of the Act does not entitle an individual to CAP services for several reasons. Both the PAIR program and CAP are programs that provide primarily advocacy services for individuals with disabilities. In addition, the PAIR program provides advocacy services with respect to other rights and benefits provided to individuals with disabilities under other Federal and State statutes.

The phrase ''services under the Act'' in section 112 of the Act was intended to include only direct VR, independent living, supported employment, and other similar rehabilitation services under the Act and was never intended to include the advocacy services provided under the PAIR program. Neither the CAP nor the PAIR program provides direct ''rehabilitation services,'' as that term is traditionally defined, to individuals with disabilities. Therefore, an individual with a disability who applies for or is receiving advocacy services under the PAIR program and is either denied PAIR services or is dissatisfied with PAIR services is not eligible to seek advocacy services under the CAP from the designated agency to address any grievance with the PAIR agency.

Changes: None. However, in response to this comment on proposed § 370.3, the Secretary has added a definition to § 370.6(b) in the final regulations for the term ''services under the Act'' that excludes PAIR services.

Authorized Activities (§ 370.4)

Comments: One commenter suggested that proposed § 370.4(a)(1)(i) be revised to prohibit a designated agency from providing advocacy services to clients whose grievances involve services and benefits available under Title I of the ADA. Two commenters suggested that a designated agency should be permitted to advocate for the individual's rights under Title I of the ADA. Two other commenters stated that proposed § 370.4(b) is confusing and suggested that this provision be reworded.

Discussion: An individual who needs or is seeking assistance and advocacy services to assert his or her rights under Title I of the ADA and who is also a client or client applicant under the Act may receive advocacy services from the designated agency with respect to his or her claims under Title I of the ADA, if the assistance and advocacy under Title I of the ADA are directly related to services that the client or client applicant is seeking or receiving under the Act. Example: Under an individual written rehabilitation program developed pursuant to Title I of the Act, a State VR agency is assisting a client who must use a wheelchair to obtain employment with Employer Y. However, Employer Y refuses to make the company's entrance accessible to wheelchairs. A designated agency would be able to undertake advocacy under Title I of the ADA on behalf of that client to argue that Employer Y is required to make the company's entrance accessible to wheelchairs.

Nothing in the revisions made to section 112 of the Act or in the legislative history of those revisions indicates that a designated agency may advocate for an individual whose grievances involve only rights, services, and benefits available under Title I of the ADA, but whose grievances are not related to services under the Act. However, the Secretary does wish to point out that an individual whose grievances involve only rights, services, and benefits available under Title I of the ADA may be eligible to obtain advocacy services to pursue those rights, services, and benefits from an eligible agency under the PAIR program.

Changes: The Secretary has revised § 370.4 (a) and (b) in the final regulations to clarify that the designated agency may provide assistance and advocacy services to a client or client applicant with respect to the individual's claims under Title I of the ADA, if those claims under Title I of the ADA are directly related to services under the Act that the individual is receiving or seeking.

Comments: Several commenters suggested that proposed § 370.4(a)(2) be revised to give the designated agency discretion to deny an individual's request for advocacy services if the individual's case is without merit.

Discussion: Nothing in the Act or these regulations either requires the designated agency to accept frivolous cases on behalf of individuals or takes away a designated agency's discretion to deny an individual's request for advocacy services if the designated agency determines that an individual's complaint has no merit. Therefore, the Secretary does not believe a change is necessary. However, a designated agency must accept all meritorious requests for advocacy services to the extent that resources are available.

Changes: None.

Comments: Three commenters suggested changing the word ''exiting'' to ''transitioning'' in proposed § 370.4(a)(2)(ii) to reflect the Act's requirement that State VR and educational agencies work together to provide transitional services for students with disabilities leaving secondary school programs.

Discussion: The Secretary agrees that referring to an individual's ''transition'' from public school programs to services under the Act is more appropriate and more accurately reflects the requirements in sections 101(a)(24) and 103(a)(14) of the Act that State VR agencies work with education officials to plan for and provide ''transitional'' services to students with disabilities leaving public school programs.

Changes: The Secretary has replaced the word ''exiting'' with the phrase ''making the transition from'' in § 370.4(a)(3)(ii) in the final regulations.

[Note: Proposed § 370.4(a)(2)(ii) has been redesignated § 370.4(a)(3)(ii) in the final regulations.]

Definitions (§ 370.6(b))

Advocacy

Comments: One commenter felt that the proposed term ''systemic advocacy'' should be more clearly defined.

Discussion: The Secretary believes that the definition of ''systems (or systemic) advocacy'' in § 370.6(b) is adequate.

Changes: None.

Comments: One commenter recommended revising the proposed definition of advocacy because non-lawyer staff in the designated agency typically represent clients at formal administrative hearings conducted by State VR agencies.

Discussion: The Secretary acknowledges that some State agencies permit non-lawyers, as well as lawyers, to represent individuals in formal administrative proceedings, as well as in informal administrative proceedings. The definition of advocacy in § 370.6(b) in the final regulations is not intended to supersede applicable State law or State agency rules that may permit non-lawyers, as well as lawyers, to engage in advocacy on behalf of another individual. Because the definition of ''advocacy'' in the final regulations does not preclude non-lawyers from representing clients or client applicants if State law or State agency rules permit, the Secretary does not believe any revision is necessary to allow this practice.

Changes: None.

Class Action

Comments: One commenter stated that the proposed definition of ''class action'' was unnecessary because the term is defined in the Federal Rules of Civil Procedure (FRCP).

Discussion: The Secretary acknowledges that FRCP prescribes the requirements for class actions in the courts of the United States. These or similar rules establishing requirements for class actions have been adopted by many States. However, to help distinguish between the terms ''class action'' and ''systemic advocacy'' as used in these regulations, the Secretary believes the definition of ''class action'' should be clarified.

For purposes of the CAP, engaging in ''systems (or systemic) advocacy'' on behalf of a group or class of individuals is permissible, if the ''systems (or systemic) advocacy'' does not include filing a formal ''class action,'' which is specifically prohibited by section 112(d) of the Act, in a Federal or State court.

Changes: The Secretary has added language to the definition of ''class action'' in § 370.6(b) in the final regulations that excludes ''systemic advocacy,'' if the ''systems (or systemic) advocacy'' does not include filing a formal ''class action'' in a Federal or State court.

Client or Client Applicant

Comments: Eight commenters noted that it was unclear whether the proposed definition of the terms ''client'' and ''client applicant'' apply to the designated agency's clients and client applicants or to clients and client applicants under the Act. Several of these commenters also observed that excluding from the proposed definition of ''client or client applicant'' those individuals who receive only information and referral services adds to the confusion.

Discussion: The Secretary agrees that these regulations should clarify that the terms ''client'' and ''client applicant'' refer only to those individuals who are receiving or seeking services under the Act, respectively.

Changes: The Secretary has revised the definition of ''client or client applicant'' in § 370.6(b) in the final regulations to clarify that these terms refer only to individuals who are receiving or seeking services under the Act, respectively.

Mediation

Comments: Some commenters objected to the requirement, included in the proposed definition of mediation, that a designated agency shall obtain the services of an independent third party if the designated agency chooses to use mediation to resolve a dispute between a client or client applicant and a service provider. These commenters objected because the proposed requirement is contrary to the current practice at a number of CAPs and obtaining the services of third party mediators would be costly and burdensome.

Discussion: The Secretary recognizes that hiring independent third parties to act as mediators would be more expensive than using in-house staff who have been trained in the art of mediation, which is the current practice at many designated agencies and which was permitted by the former CAP regulations. Therefore, the Secretary believes that a designated agency should be allowed to continue using its employees as mediators in those cases

in which the designated agency relies on mediation to resolve a dispute between a client or client applicant and a service provider. However, if a designated agency uses any of its employees as mediators, an individual employee of the designated agency may not assume, at one point in time, the role of advocate for a client or client applicant and, at another point in time, the role of a mediator in the same or other dispute involving that client or client applicant.

In addition, if a designated agency does not use one of its own employees as a mediator, it shall use a professional mediator or other independent third party mutually agreed to by the parties to the dispute. As a practical matter, allowing a designated agency to assign one of its employees to act as a mediator in a dispute between a client or client applicant and a service provider means that the designated agency will have to assign another employee to act as an advocate for the client or client applicant in that dispute. Otherwise, the existence of the conflict of interest that will arise from the same employee acting as both an advocate and the mediator will prevent the designated agency from fulfilling its statutory mandate to provide advocacy services for the client or client applicant.

Although the definition of ''mediation'' in the final regulations does not include an exemption for an employee of a designated agency to act as a mediator, the Secretary believes that this exemption is better placed in § 370.43 of the final regulations. The Secretary also believes the definition of ''mediation'' for the CAP should be consistent with the definition of ''mediation'' found in the final PAIR regulations (34 CFR 381.5(b)).

Changes: The Secretary has revised the definition of ''mediation'' in § 370.6(b) in the final regulations to be consistent with the definition of ''mediation'' in the regulations published for the PAIR program. The Secretary also has added language to § 370.43 to permit an employee of a designated agency to serve as a mediator as long as that employee has not been and is not advocating on behalf of the client or client applicant who is a party to the mediation and is not involved in representing or assigned to represent that same client or client applicant.

Comments: Some commenters objected to the proposed definition of mediation because they do not believe it has a statutory basis. These commenters also argued that a designated agency should be allowed to listen to both sides of a dispute, conduct an investigation of the facts, and attempt mediation before ''taking the stance of a negotiator.'' Other commenters stated that a designated agency can provide mediation and negotiation to resolve a client's problem. One commenter argued that the proposed definition of mediation would force designated agencies to always assume the position of negotiator.

Discussion: Section 112(g)(3) of the Act states, in relevant part, as follows:

> The Secretary shall *prescribe regulations* applicable to the client assistance program which shall include the following requirements:
>
> * * * * *
>
> (3) Each program shall contain provisions designed to assure that to the maximum extent possible *mediation* procedures are used prior to resorting to administrative or legal remedies.

29 U.S.C. 732(g)(3) (emphases added). Clearly, the Secretary has statutory authority to define mediation by regulations and to regulate on its use by designated agencies. In addition, the Secretary believes that the comments received on the proposed definition of ''mediation'' indicate a misunderstanding of the difference between ''mediation'' and ''advocacy'' and a designated agency's responsibilities to clients and client applicants.

As defined in these regulations, advocacy means to plead an individual's cause or to speak or write in support of an individual. A designated agency is charged under section 112(a) of the Act with advocating the best interests of the client or client applicant, whether those interests are advocated during negotiations, mediation, administrative proceedings, litigation, or any other circumstances.

The role of a mediator, on the other hand, is to be an independent third party who listens objectively to both sides of a dispute between the client or client applicant and the service provider. A mediator is not supposed to take sides.

Therefore, the Secretary believes that the roles of advocate and mediator are mutually exclusive and that an individual employee of the designated agency may not assume both roles at the same time in any dispute involving the same client or client applicant, nor assume the role of advocate at one point in time and the role of mediator at another point in time in different disputes involving the same client.

The Secretary believes that allowing a designated agency to use one of its employees as an advocate for a particular client or client applicant and another of its employees as a mediator is consistent with a designated agency's statutory purpose and allows a designated agency maximum flexibility. In addition, the Secretary believes that restricting individual employees of the designated agency to only one of these two roles with respect to any one individual client or client applicant provides the necessary protection to ensure that a client or client applicant receives the advocacy to which he or she is entitled.

Changes: The same changes made in response to the previous comment on the definition of mediation apply to this comment.

Accessibility (§ 370.7) (New)

Comments: One commenter suggested that the designated agency be required to ensure that communications are provided in accessible formats.

Discussion: The Secretary agrees that the designated agency must provide the CAP services described in § 370.4 in formats that are accessible to clients or client applicants who seek or receive CAP services.

Changes: The Secretary has added to the final regulations a new § 370.7 that requires a designated agency to provide CAP services in accessible formats.

Applicability of Redesignation Requirements (§§ 370.10 Through 370.17) to Contracts

Comments: Four commenters objected to the language in proposed § 370.10(b), which applies the redesignation requirements in proposed §§ 370.10 through 370.17 to a designated agency's decision to cancel or not renew a contract between the designated agency and an entity actually carrying out the CAP. These commenters argued that only an actual redesignation of the agency designated by the Governor of the State to carry out the State's CAP is subject to the redesignation provision in section 112(c)(1)(B) of the Act.

Discussion: The Secretary does not agree with the commenters. The intent of section 112(c)(1)(B) of the Act is to protect a designated agency from retaliation for pursuing complaints against agencies that provide services under the Act, particularly those service providers that are State agencies. In several States, the designated agency contracts with other entities or individuals to carry out all or part of its responsibilities under the CAP. If section 112(c)(1)(B) of the Act is not made applicable to contracts between a designated agency and those entities or individuals with which it contracts, the designated agency (particularly if it is a State agency) may decide to terminate its CAP contract because the contractor

is pursuing too many complaints against State agencies that are service providers under the Act. Therefore, the Secretary believes that section 112(c)(1)(B) of the Act should be made applicable to contracts between a designated agency and those entities or individuals with which it contracts to carry out all or part of its responsibilities under the CAP.

However, the Secretary believes that a designated agency that fails to renew a contract simply because it is complying with State procurement laws requiring contracts to be awarded through a competitive bidding process meets the requirement to show good cause. In addition, the Secretary believes clients and client applicants, individuals with disabilities, and the public will be served best if a designated agency that plans to issue a request for proposal pursuant to State procurement laws holds a public hearing to allow interested parties to comment on the proposed contract.

Changes: The Secretary has revised § 370.10(b) in the final regulations to clarify its meaning. The Secretary also has deleted proposed § 370.10(c) because it is unnecessary and has added a new § 370.10(c). New § 370.10(c) establishes a rebuttable presumption of ''good cause for redesignation'' if a designated agency does not renew a contract for CAP services because it is following State procurement laws that require contracts to be awarded only through a competitive bidding process. Additionally, new § 370.10(d) requires a designated agency that follows State competitive procurement laws to hold public hearings on the request for proposal before awarding the new contract. Finally, the Secretary has added the State Rehabilitation Advisory Council (as established under section 105 of the Act) and the State Independent Living Council (as established under section 705 of the Act) to the parties that must receive notice pursuant to § 370.11 of the final regulations.

Comments: Two commenters recommended adding further requirements to the redesignation provisions in proposed §§ 370.10 through 370.17 so that equipment and case and fiscal records are transferred and the new CAP agency is operational within a designated timeframe. Another commenter suggested adding language to the redesignation requirements to ensure that consumers experience no delay in access to CAP services if a State's CAP agency is redesignated.

Discussion: The Secretary believes that the Governor of a State will take whatever steps are necessary to minimize the possibility of any delay in access to CAP services if a State's CAP agency is redesignated and to ensure that the interests of client and client applicants will be adequately protected during any redesignation.

Changes: None.

Comments: One commenter suggested revising the assurance required by proposed § 370.20(b)(1) concerning the designated agency's authority to pursue legal, administrative, and other remedies because the proposed assurance is applicable only to those individuals who are receiving services under the Act and not to those individuals seeking services under the Act.

Discussion: The Secretary did not intend to exclude those individuals who are seeking services under the Act but who have not yet begun receiving services under the Act from the protection provided by the assurance required by proposed § 370.20(b)(1).

Changes: The Secretary has revised the assurance required by § 370.20(b)(1) in the final regulations to include both clients and client applicants.

Allocation of Funds (§ 370.30)

Comments: Three commenters suggested that the minimum allotments described in proposed § 370.30 are incorrect and should reflect the amount of the current appropriation.

Discussion: The Secretary notes that proposed § 370.30 parallels the statutory language in section 112(e)(1) of the Act and provides that, if section 112(e)(1)(D) of the Act applies, the minimum allotment to each State will be increased. However, the Secretary recognizes that the effect of this provision can be clarified.

Changes: The Secretary has added language to § 370.30 in the final regulations to clarify that the minimum allotment to each State will be increased if Congress increases the appropriation for the CAP as provided under section 112(e)(1)(D) of the Act.

Allowable Costs (§ 370.40)

Comments: None.

Discussion: Upon further review of proposed § 370.40(e), the Secretary has decided that the policy on offsetting costs that have been disallowed as a result of an audit or a monitoring review should be uniform for all Department programs and that no rationale exists for treating the CAP differently.

Changes: The Secretary has deleted proposed § 370.40(e).

Conflict of Interest (§ 370.41)

Comments: Six commenters requested clarification of proposed § 370.41, which prohibits employees of State agencies (who also may be CAP employees) from serving in any capacity in any other project, program, or community rehabilitation program under the Act. Two of these commenters suggested revising this section to prohibit any employee of the State VR agency, a center, or any other program funded under the Act, from serving on a CAP board of directors or otherwise occupying a position with authority to make personnel or management decisions for the CAP. Another commenter stated that this section is confusing because the Act mandates CAP participation on ''Rehabilitation Agency Advisory Boards.''

Discussion: The Secretary believes that a conflict of interest exists if an employee of the designated agency serves in any capacity that could jeopardize or give the appearance of jeopardizing the independence of the designated agency. However, the Secretary recognizes that an employee of a designated agency who carries out CAP duties and responsibilities may be employed either by a State VR agency (or another agency that provides services under the Act) that has been ''grandfathered'' (i.e., not subject to the ''independence'' requirement) pursuant to section 112(c)(1)(A) of the Act, or by a center under contract with a designated agency pursuant to new § 370.2(f) of the final regulations. To avoid creating the conflict of interest that may arise under these and other circumstances, § 370.41(a) of the final regulations clarifies that employees of a State VR agency, or another agency that provides services under the Act, as well as all other employees of the designated agency, may not (1) serve concurrently in any position with a rehabilitation project, program, or community service program receiving assistance under the Act; or (2) provide any services under the Act other than CAP and PAIR services. This prohibition does not prevent employees of the designated agency from providing CAP services and (1) receiving a traineeship under section 302 of the Act; (2) representing the designated agency on a board or council, if designated agency participation on the board or council is specifically permitted or mandated by the Act; and (3) consulting with policymaking and administrative personnel in the State and with rehabilitation projects, programs, or community rehabilitation programs.

Changes: The Secretary has revised § 370.41 in the final regulations to clarify that employees of a designated agency, of a center, or of entities or individuals with which a designated agency contracts to carry out any duties

or responsibilities under the CAP, are limited in the roles they may undertake in addition to their CAP duties and responsibilities.

Access to Policymakers (§ 370.42)

Comments: Three commenters suggested changing the word ''may'' in the second sentence of proposed § 370.42 to ''shall'' or ''should'' to parallel statutory language in sections 101(a) (18) and (23) of the Act, which require that the designated State VR agency consult the director of the CAP on policy matters related to the provision of VR services under the State VR plan. Four commenters suggested adding the words ''or his or her designee'' after the phrase ''CAP director,'' or otherwise revising this section to clarify that, in those cases in which the director of the designated agency is not the person in charge of day-to-day operations of the CAP, the person who actually runs the CAP should be consulted.

Discussion: The Secretary notes that the first sentence of § 370.42 is nearly identical to section 112(g)(2) of the Act and includes the mandatory word ''must'' to require that the designated agency be afforded access to policymaking and administrative personnel in State and local rehabilitation programs, projects, or community rehabilitation programs. However, the permissive ''may'' is used in the second sentence of § 370.42 to suggest one of several ways that the designated agency could be provided access. Each State can decide how to implement § 370.42, and the Secretary expects that a variety of mechanisms may be established. The Secretary believes that States will comply fully with the spirit of section 112(g)(2) of the Act and that § 370.42 gives the States maximum flexibility in meeting this requirement. Therefore, the Secretary believes that the current wording is appropriate.

Changes: None.

Use of Mediation (§ 370.43)

Comments: Two commenters suggested changing the word ''and'' to ''or'' in proposed § 370.43(a) to clarify that the designated agency need not provide both good faith negotiations and mediation on behalf of clients or client applicants. One commenter suggested modifying the proposed definition to conform to the comparable provision for the PAIR program in 34 CFR 381.10(a)(9) to clarify that the designated agency need not use mediation if the designated agency determines that mediation is not appropriate in a particular case.

Discussion: Section 112(g)(3) of the Act requires a designated agency to use mediation to the maximum extent possible before resorting to administrative or legal remedies. In addition, section 2(a)(2) of the Executive Order on Civil Justice Reform, E.O. 12778 (January 21, 1991), requires that all Federal regulations ''be written to minimize needless litigation.'' Requiring a designated agency to engage in good faith negotiations and mediation, to the maximum extent possible, before the designated agency may resort to formal administrative or legal remedies is consistent with both section 112(g)(3) of the Act and E.O. 12778.

However, whether mediation is appropriate in a particular case depends on the circumstances of the case, including the issues raised and applicable legal deadlines and State administrative requirements. For example, mediation in a specific situation may not be required before the designated agency may resort to formal administrative or legal remedies if a statutory, regulatory, or other legal deadline precludes mediation as impractical, or if mediation is otherwise determined to be inappropriate under the circumstances of that particular case. The statutory mandate to use mediation to the maximum extent possible permits a case-by-case determination of the appropriateness of mediation and does not establish an inflexible requirement that mediation be used in all cases.

If a designated agency does not have sufficient resources both to advocate for its clients and to obtain an independent mediator to assist in resolving a dispute, it is not required to use mediation. Under those circumstances, a designated agency should make full use of the negotiations process.

Changes: The Secretary has added language to § 370.43 that permits a designated agency to take into account the extent of its resources in deciding whether or not to engage in mediation in a particular case. The Secretary also has added a new paragraph (b) to § 370.43 that clarifies when a designated agency may use its employees to conduct mediation. See the earlier discussion of this issue in the discussion of the definition of ''mediation.''

Comments: Five commenters recommended revising proposed § 370.43 to include consideration of client choice in the decision to engage in mediation.

Discussion: Although the 1992 Amendments introduced a new level of client choice to programs funded under the Act, the requirement in section 112(g)(3) that designated agencies use mediation to the maximum extent possible remained unchanged and is not subject to client choice.

Changes: None.

Comments: One commenter expressed concern that a designated agency will not have to account for the proper expenditure of CAP funds because proposed § 370.43 does not require a designated agency to maintain records that will support its decision to engage in formal administrative or legal remedies.

Discussion: A State must include in its application for assistance under the CAP the general assurance required by § 370.20(c)(2) that a designated agency will meet the requirements in these regulations. The specific assurance that a designated agency will implement procedures to ensure that mediation is used to the maximum extent possible before formal administrative or legal remedies are undertaken is implicit in the general assurance required by § 370.20(c)(2). Therefore, the Secretary is satisfied that designated agencies will maintain sufficient documentation to support their obligation to engage in mediation to the maximum extent possible before engaging in formal administrative or legal remedies on behalf of clients or client applicants.

Changes: None.

Annual Reports (§ 370.44)

Comments: Seven commenters suggested that the proposed definitions of ''requests for assistance'' and ''requests for assistance that the designated agency was unable to serve'' in § 370.44 be clarified and questioned whether this section applies to ''requests for information and referrals.'' Three of these commenters recommended changes that would require a designated agency to identify more specifically why it was unable to serve a particular request for assistance. One of these commenters suggested that this section be revised to require a designated agency to include in its annual report information on (1) how many individuals were denied the range of CAP services that those individuals felt they were entitled to receive from the designated agency, and (2) the reasons that these requests for CAP services were denied. Two of these commenters suggested that this section also be revised to require a designated agency to include in its annual report information about specific groups or classes of individuals with disabilities who were unserved or underserved by the designated agency and the reasons (e.g., lack of CAP resources, language barriers, factors related to disability, or

ineligibility) that these groups or classes were not served appropriately.

Discussion: The Secretary notes that section 112(g)(5) of the Act requires a designated agency to include in its annual report information on (1) the number of ''requests the [CAP] * * * receives annually'' and ''requests [the CAP] is unable to serve''; and (2) the reasons that the [CAP] is unable to serve all the requests.'' These requests include requests for information and referral. The Secretary also recognizes that a designated agency may be unable to provide advocacy services to some individuals who request assistance under the CAP. The Secretary believes Congress intended that a designated agency identify in its annual report only those requests for advocacy services that a designated agency is unable to serve. In providing the reasons why it was unable to serve requests for advocacy services, § 370.44 of the final regulations requires the designated agency to provide a summary of the reasons why the cases were closed before resolution. The Secretary also agrees with the commenters who suggested that the regulations should include more specific requirements for the types of cases that the designated agency should include in its annual report.

Changes: The Secretary has revised § 370.44 in the final regulations to clarify that ''requests for assistance'' include ''requests for information and referral'' and that ''requests for assistance that the designated agency was unable to serve'' means requests for advocacy services that the designated agency was unable to serve. Specifically, the Secretary has revised § 370.44 in the final regulations to clarify that designated agencies are required to report on (1) the number of requests received by the designated agency for information on services and benefits under the Act and Title I of the ADA; (2) the number of referrals to other agencies made by the designated agency and the reason or reasons for those referrals; (3) the number of requests for advocacy services received by the designated agency for assistance from clients or client applicants; (4) the number of the requests for advocacy services that the designated agency was unable to serve; and (5) the reasons that the designated agency was unable to serve all of the requests for advocacy services.

Comments: One commenter recommended deleting the requirement in proposed § 370.44(d) that the annual report contain ''any other information that the Secretary may require'' because it is too open-ended. Five commenters suggested modifying this proposed requirement to indicate that the Secretary must communicate any new reporting requirements prior to the beginning of the fiscal year for which that information is requested.

Discussion: The Secretary will make every effort to provide reasonable notice before new requirements take effect. Nonetheless, the Secretary must have the ability to respond to unforeseen circumstances and changes.

Changes: None.

Protection, Use, and Release of Personal Information (§ 370.48)

Comments: One commenter suggested deleting the phrase ''parent, or other legally authorized representative or advocate'' from proposed § 370.48(b) because the release of information by these individuals is not allowed under the Federal Fair Information Practices Act, 5 U.S.C. 552a, and other Federal and State statutes.

Discussion: Nothing in § 370.48 is intended to supersede any other Federal law that may restrict or expand an individual's right to control his or her personal information or that restricts another individual's ability to act on behalf of someone else. The statutory provision referred to by the commenter in 5 U.S.C. 552a applies to the disclosure of personal information by Federal agencies, not to the power given through a valid legal instrument to any individual (e.g., a parent, legal guardian, or attorney) to consent, on behalf of another person, to the release of personal information about that other person. Therefore, section 552a is not relevant to § 370.48(b).

Changes: The Secretary has added the word ''legal'' in front of the word ''guardian'' to § 370.48(b) in the final regulations to stress that only those individuals who have been given legal authority to act on behalf of an individual may do so.

Comments: One commenter suggested revising proposed § 370.48(c) to prevent State VR agency directors from obtaining client information from designated agencies that are not subject to the independence requirement in section 112(c)(1)(A) of the Act.

Discussion: The Secretary believes that the limitations on the unauthorized use of personal information described in § 370.48(b) will prevent the disclosure of personal information to unauthorized persons or for unauthorized purposes under § 370.48(c). Section 370.48(b) requires the designated agency to use personally identifiable information only for those purposes directly connected with the CAP. The files of a client or client applicant that are maintained by a designated agency are presumptively confidential and subject only to the exceptions listed in § 370.48(c) through (e). Therefore, the State VR agency director may not use his or her authority under § 370.48(c) to gain access to files containing personal information about requests for assistance under the CAP, unless it is for a purpose directly connected to the CAP or is otherwise subject to the exceptions in § 370.48(c) through (e).

Changes: None.

Comments: Two commenters recommended that ''substantial'' evidence should be required before the Secretary may obtain access to personal information pursuant to proposed § 370.48(e). Two other commenters suggested that the Secretary should be permitted to request only personal information that is reasonably likely to lead to relevant evidence of the designated agency's alleged wrongdoing.

Discussion: The Secretary fully appreciates a designated agency's desire to protect the confidentiality of personal information about clients and client applicants. However, in a similar program, Congress recognized the need for the Secretary to have access to personal information if there is probable cause to believe a recipient of Federal funds has violated its legislative mandate or misused Federal funds. See H. Rep. No. 102–822, 102d Cong., 2d Sess. 123 (1992). Therefore, if an audit, evaluation, monitoring review, State plan assurance review, or other investigation produces reliable evidence that there is probable cause to believe that the designated agency has violated its legislative mandate or misused Federal funds, or if the Secretary determines the personal information that is sought may reasonably lead to further evidence that is directly related to alleged misconduct of the designated agency, § 370.48(e) of the final regulations permits the Secretary to gain access to personal information of the designated agency's clients or client applicants. The Secretary believes the limited access to the identity of, or any other personally identifiable information related to, any individual requesting assistance under the CAP that is given to the Secretary by § 370.48(e) is fully consistent with section 112(g)(6) of the Act.

Changes: The Secretary has revised § 370.48(e) in the final regulations to clarify the Secretary's access to personal information. If an audit, evaluation, monitoring review, State plan assurance review, or other investigation produces reliable evidence that there is probable cause to believe that the designated agency has violated its legislative

mandate or misused Federal funds, or the Secretary determines that specific and limited personal information may reasonably lead to further evidence that is directly related to alleged misconduct of the designated agency, § 370.48(e) grants the Secretary access to that personal information of individuals who have received or sought services from the designated agency.

Comments: One commenter suggested deleting proposed § 370.48(f), which provides that the right of a person or designated agency not to produce documents or disclose information is governed by the common law of privileges, as interpreted by the courts of the United States. This commenter believes proposed § 370.48(f) creates, without any statutory authority, a two-tier system in which clients of a designated agency would not receive the same protection of confidentiality when asserting their attorney-client privilege as individuals who retain private counsel. Two other commenters suggested deleting proposed § 370.48(f) because they believe there is no body of Federal common law applicable to the law of privileges and the current wording appears to exclude consideration of other Federal or State protections that may apply. These two commenters also stated that the common law of privileges in the Federal courts was replaced years ago by the Federal Rules of Evidence.

Discussion: Section 370.48(f) of the final regulations provides that the Secretary's access to the identity of, or any other personally identifying information (i.e., name, address, telephone number, social security number, or any other official code or number by which an individual may be readily identified) related to, any individual requesting assistance under the CAP is governed by the common law of privileges, as interpreted by the courts of the United States. Section 370.48(f) is consistent with Rule 501 of the Federal Rules of Evidence (FRE), which govern proceedings in the courts of the United States that raise a Federal question and is, in effect, identical to § 81.17 of 34 CFR Part 81, which governs proceedings before the Office of Administrative Law Judges of the Department of Education concerning the enforcement of legal requirements under applicable Department programs.

Rule 501 of the FRE reads, in relevant part, as follows:

Except as otherwise required by the Constitution of the United States or provided by Act of Congress or in rules prescribed by the Supreme Court pursuant to statutory authority, the privilege of a witness, person, government, State or political subdivision thereof shall be governed by the *principles of the common law as they may be interpreted by the courts of the United States* in the light of reason and experience.

28 U.S.C. Appendix–FRE 501 (emphasis added). In a case that raises a Federal question, the language of Rule 501 clearly provides that questions of evidentiary privileges are governed by Federal common law. *U.S.* v. *Zolin*, 491 U.S. 554, 562, 109 S.Ct. 2619, 2625 (1989); *Tornay* v. *U.S.*, 840 F.2d 1424, 1426 (9th Cir. 1988). More specifically, if a case raises a Federal question, Rule 501 applies to cases that raise the attorney-client privilege as a bar to disclosure of information. *U.S.* v. *Goldberger and Dubin, P.C., et al.*, 935 F.2d 501, 505 (2d Cir. 1991). State laws governing the protection of attorney-client confidences and secrets when a Federal agency seeks disclosure of those confidences pursuant to the Federal agency's statutory or regulatory authority would not be relevant. *U.S.* v. *Goldberger*, supra; *Dole* v. *Milonas*, 889 F.2d 885, 889 (9th Cir. 1989); *U.S.* v. *Hodge and Zweig*, 548 F.2d 1347, 1352 (9th Cir. 1977). Nor does Rule 501 distinguish between a party or witness who is represented by private counsel or by counsel provided under a Federal program such as the CAP.

A dispute between the Secretary and a designated agency concerning the designated agency's proper expenditure of CAP funds raises a ''Federal question'' (i.e., a case in which a question of law arises under the Constitution of the United States, a Federal statute, or Federal regulations) because the dispute would involve a question under the Act and the CAP regulations. In addition, the issue of the Secretary's access to personal information that is relevant to the designated agency's proper expenditure of CAP funds would be part of that Federal question. Therefore, pursuant to § 370.48(f), which applies the principle of Rule 501 to these circumstances, the Secretary's access to personal information is governed by the Federal common law of privileges.

The Secretary understands a designated agency's legitimate concern of maintaining the sanctity of the attorney-client privilege created by the relationship between a designated agency's attorneys and individuals who come to the designated agency seeking CAP services. The Secretary also understands a designated agency's legitimate concern that individuals who come to the designated agency seeking CAP services should enjoy the same privileges as those individuals who seek private counsel. However, in any Federal question case in which the Federal government is a party, a party or witness who is represented by private counsel is subject to Rule 501. Nothing in § 370.48(f) of the final regulations changes this or limits or expands the applicability of the common law of privileges, as interpreted by the courts of the United States, to the Secretary's access to the identity of, or any other personally identifiable information related to, any individual requesting assistance under the CAP. Therefore, clients of a designated agency will receive the same protection of confidentiality when asserting their attorney-client privilege as individuals who retain private counsel.

As a final note, the FRE became effective for cases in Federal courts on July 1, 1975.

Changes: None.

Executive Order 12866

These final regulations have been reviewed in accordance with Executive Order 12866. Under the terms of the order the Secretary has assessed the potential costs and benefits of this regulatory action.

The potential costs associated with the final regulations are those resulting from statutory requirements and those determined by the Secretary to be necessary for administering these programs effectively and efficiently.

In assessing the potential costs and benefits—both quantitative and qualitative—of these regulations, the Secretary has determined that the benefits of the regulations justify the costs. A further discussion of the potential costs and benefits of these proposed regulations is contained in the summary at the end of this section of the preamble.

The Secretary also has determined that this regulatory action does not unduly interfere with State, local, and tribal governments in the exercise of their governmental functions.

Summary of Potential Costs and Benefits of Regulatory Provisions Discussed Earlier in This Preamble

The following are the provisions of these regulations that may add significant cost or impose significant burden on the States under this program:

Eligible Subgrantees (§ 370.2(e))

This provision in the final regulations allows designated agencies to contract to carry out part or all of the State's CAP, but does not permit a designated agency to contract with or subgrant with entities or individuals that provide services under the Act, other than centers. This provision could result in

some disruption for those designated agencies that have contracted with service providers other than centers. However, the need to prevent the conflict of interest that results if an entity attempts to advocate for an individual who feels aggrieved by that same entity outweighs the disruption that will occur for those designated agencies engaged in this practice.

Definitions (§ 370.6(b))—Mediation

The definition of ''mediation'' in § 370.6(b) and the requirements in § 370.43 of the final regulations clarify the relationship between advocacy and mediation and are designed to ensure compliance with section 112(g)(3) of the Act. Paragraph (b) of § 370.43 allows designated agencies to use their employees as mediators under limited circumstances.

Public comment on the NPRM demonstrated great confusion and misunderstanding about the meaning of ''mediation,'' which section 112(g)(3) of the Act requires designated agencies to engage in to the maximum extent possible before resorting to administrative or legal remedies. The interpretation of the term ''mediation'' by many designated agencies is inconsistent with any lay or legal definition of ''mediation.'' Part of the confusion and misunderstanding has resulted from the lack of understanding of the difference between ''advocacy'' and ''mediation.'' This confusion and misunderstanding has been aggravated by ambiguities in the current regulatory definition of ''mediation.'' See 34 CFR 370.43(b). Public comment also indicated that the confusion and misunderstanding about the meaning of ''mediation'' has frequently resulted in clients and client applicants receiving less than the full ''advocacy'' to which they are entitled from designated agencies.

Because of the flexibility given in § 370.43(b) to designated agencies to use their employees as mediators under certain conditions and because § 370.43(a) allows designated agencies to consider their resources in determining whether to engage in mediation, the definition of ''mediation'' and the requirements in these provisions should add little, if any, cost to the operation of a State's CAP. The benefit to clients and client applicants of having advocates who will advocate only for them and who will not also attempt to be neutral third parties in their disputes with service providers far outweighs the minimal cost to the designated agencies.

Applicability of Redesignation Requirements (§§ 370.10 Through 370.17) to Contracts

These provisions in the final regulations extend the protections of section 112(c)(1)(B) of the Act (concerning the redesignation of a designated agency by the Governor of a State) to a designated agency's decision to cancel or not renew a contract with another entity or individual to carry out or operate part or all of a State's CAP. As discussed earlier, designated agencies in several States contract with centers, individuals, and other entities to carry out or operate part or all of a State's CAP.

These provisions have been written with the minimum prescription necessary. For example, a designated agency is presumed to have good cause if it follows State procurement laws that require competitive bidding to renew a contract.

The costs of requiring designated agencies to comply with the redesignation requirements if they decide to cancel or not renew a contract are outweighed by the need to extend to contractors the same protection that section 112(c)(1)(B) provides to a designated agency from improper redesignation by the Governor of the State. This protection of a contractor's independence will help to ensure that clients and client applicants receive effective advocacy.

Conflict of Interest (§ 370.41)

The effect of the conflict of interest provision is similar to that of the provisions concerning ''mediation'' in the final regulations. The exception on contracting with service providers in § 370.2(e) of the final regulations and the ''grandfather'' clause in section 112(c)(1)(A) of the Act (permitting an agency of the State that provides services under the Act to operate a State's CAP under certain conditions) create a potential conflict of interest for those employees of centers and State agencies that operate a State's CAP who are assigned to work on the CAP.

In the same manner that the Secretary does not believe the same individual may act both as a mediator and an advocate, the Secretary does not believe an employee may serve two employers at the same time, especially if the two employers have conflicting interests. An employee who is paid by a service provider and whose job security is determined by the service provider has an inherent conflict of interest in advocating on behalf of a client or client applicant against the service provider. The cost of prohibiting this conflict of interest is far outweighed by the need to provide effective advocacy for clients and client applicants who are dissatisfied with the actions of a service provider.

Intergovernmental Review

This program is subject to the requirements of Executive Order 12372 and the regulations in 34 CFR Part 79. The objective of the Executive order is to foster an intergovernmental partnership and a strengthened federalism by relying on processes developed by State and local governments for coordination and review of Federal financial assistance.

In accordance with the order, this document is intended to provide early notification of the Department's specific plans and actions for this program.

Assessment of Educational Impact

In the notice of proposed rulemaking, the Secretary requested comments on whether the proposed regulations would require transmission of information that is being gathered by or is available from any other agency or authority of the United States.

Based on the response to the proposed regulations and on its own review, the Department has determined that the regulations in this document do not require transmission of information that is being gathered by or is available from any other agency or authority of the United States.

List of Subjects in 34 CFR Part 370

Administrative practice and procedure, Education, Client assistance, Grant program—education, Grant program—social programs, Reporting and recordkeeping requirements, vocational rehabilitation.

(Catalog of Federal Domestic Assistance Number 84.161, Client Assistance Program)

Dated: August 4,1995.

Howard R. Moses,

Acting Assistant Secretary for Special Education and Rehabilitative Services.

The Secretary amends Title 34 of the Code of Federal Regulations by revising Part 370 to read as follows:

PART 370—CLIENT ASSISTANCE PROGRAM

Subpart A—General

Sec.

Authority: 29 U.S.C. 732, unless otherwise noted.

Subpart A—General

§ 370.1 What is the Client Assistance Program (CAP)?

The purpose of this program is to establish and carry out CAPs that—

(a) Advise and inform clients and client applicants of all services and benefits available to them through programs authorized under the Rehabilitation Act of 1973 (Act), as amended;

(b) Assist and advocate for clients and client applicants in their relationships with projects, programs, and community rehabilitation programs providing services under the Act; and

(c) Inform individuals with disabilities in the State, especially individuals with disabilities who have traditionally been unserved or underserved by vocational rehabilitation programs, of the services and benefits available to them under the Act and under Title I of the Americans with Disabilities Act of 1990 (ADA), 42 U.S.C. 12101–12213.

(Authority: 29 U.S.C. 732(a))

§ 370.2 Who is eligible for an award?

(a) Any State, through its Governor, is eligible for an award under this part if the State submits, and receives approval of, an application in accordance with § 370.20.

(b) The Governor of each State shall designate a public or private agency to conduct the State's CAP under this part.

(c) Except as provided in paragraph (d) of this section, the Governor shall designate an agency that is independent of any agency that provides treatment, services, or rehabilitation to individuals under the Act.

(d) The Governor may, in the initial designation, designate an agency that provides treatment, services, or rehabilitation to individuals with disabilities under the Act if, at any time before February 22, 1984, there was an agency in the State that both—

(1) Was a grantee under section 112 of the Act by serving as a client assistance agency and directly carrying out a CAP; and

(2) Was, at the same time, a grantee under any other provision of the Act.

(e) Except as permitted in paragraph (f) of this section, an agency designated by the Governor of a State to conduct the State's CAP under this part may not award a subgrant to or enter into a contract with an agency that provides services under this Act either to carry out the CAP or to provide services under the CAP.

(f) An agency designated by the Governor of a State to conduct the State's CAP under this part may enter into a contract with a center for independent living (center) that provides services under the Act if—

(1) On February 22, 1984, the designated agency was contracting with one or more centers to provide CAP services; and

(2) The designated agency meets the requirements of paragraph (g) of this section.

(g) A designated agency that contracts to provide CAP services with a center (pursuant to paragraph (f) of this section) or with an entity or individual that does not provide services under the Act remains responsible for—

(1) The conduct of a CAP that meets all of the requirements of this part;

(2) Ensuring that the center, entity, or individual expends CAP funds in accordance with—

(i) The regulations in this part; and

(ii) The cost principles applicable to the designated agency; and

(3) The direct day-to-day supervision of the CAP services being carried out by the contractor. This day-to-day supervision must include the direct supervision of the individuals who are employed or used by the contractor to provide CAP services.

(Authority: 29 U.S.C. 711(c) and 732(a) and (c)(1)(A))

§ 370.3 Who is eligible for services and information under the CAP?

(a) Any client or client applicant is eligible for the services described in § 370.4.

(b) Any individual with a disability is eligible to receive information on the services and benefits available to individuals with disabilities under the Act and Title I of the ADA.

(Authority: 29 U.S.C. 732(a))

§ 370.4 What kinds of activities may the Secretary fund?

(a) Funds made available under this part must be used for activities consistent with the purposes of this program, including—

(1) Advising and informing clients, client applicants, and individuals with disabilities in the State, especially individuals with disabilities who have traditionally been unserved or underserved by vocational rehabilitation programs, of—

(i) All services and benefits available to them through programs authorized under the Act; and

(ii) Their rights in connection with those services and benefits;

(2) Informing individuals with disabilities in the State, especially individuals with disabilities who have traditionally been unserved or underserved by vocational rehabilitation programs, of the services and benefits available to them under Title I of the ADA;

(3) Upon the request of a client or client applicant, assisting and advocating on behalf of a client and client applicant in his or her relationship with projects, programs, and community rehabilitation programs that provide services under the Act by engaging in individual or systemic advocacy and pursuing, or assisting and

advocating on behalf of a client and client applicant to pursue, legal, administrative, and other available remedies, if necessary—

(i) To ensure the protection of the rights of a client or client applicant under the Act; and

(ii) To facilitate access by individuals with disabilities and individuals with disabilities who are making the transition from public school programs to services funded under the Act; and

(4) Providing information to the public concerning the CAP.

(b) In providing assistance and advocacy services under this part with respect to services under Title I of the Act, a designated agency may provide assistance and advocacy services to a client or client applicant to facilitate the individual's employment, including assistance and advocacy services with respect to the individual's claims under Title I of the ADA, if those claims under Title I of the ADA are directly related to services under the Act that the individual is receiving or seeking.

(Authority: 29 U.S.C. 732(a))

§ 370.5 What regulations apply?

The following regulations apply to the expenditure of funds under the CAP:

(a) The Education Department General Administrative Regulations (EDGAR) as follows:

(1) 34 CFR Part 74 (Administration of Grants to Institutions of Higher Education, Hospitals and Nonprofit Organizations) applies to the designated agency if the designated agency is not a State agency, local government agency, or Indian tribal organization. As the entity that eventually, if not directly, receives the CAP grant funds, the designated agency is considered a recipient for purposes of part 74.

(2) 34 CFR Part 76 (State-Administered Programs) applies to the State and, if the designated agency is a State or local government agency, to the designated agency, except for—

(i) § 76.103;

(ii) §§ 76.125 through 76.137;

(iii) §§ 76.300 through 76.401;

(iv) § 76.708;

(v) § 76.734; and

(vi) § 76.740.

(3) 34 CFR Part 77 (Definitions that Apply to Department Regulations).

(4) 34 CFR Part 79 (Intergovernmental Review of Department of Education Programs and Activities).

(5) 34 CFR Part 80 (Uniform Administrative Requirements for Grants and Cooperative Agreements to State and Local Governments) applies to the State and, if the designated agency is a State or local government agency, to the designated agency.

(6) 34 CFR Part 81 (General Education Provisions Act-Enforcement) applies to both the State and the designated agency, whether or not the designated agency is the actual recipient of the CAP grant. As the entity that eventually, if not directly, receives the CAP grant funds, the designated agency is considered a recipient for purposes of Part 81.

(7) 34 CFR Part 82 (New Restrictions on Lobbying).

(8) 34 CFR Part 85 (Governmentwide Debarment and Suspension (Nonprocurement) and Governmentwide Requirements for Drug-Free Workplace (Grants)).

(b) The regulations in this Part 370.

(c) The regulations in 34 CFR 369.43, 369.46 and 369.48, relating to various conditions to be met by grantees.

(NOTE: Any funds made available to a State under this program that are transferred by a State to a designated agency do not comprise a subgrant as that term is defined in 34 CFR 77.1. The designated agency is not, therefore, in these circumstances a subgrantee, as that term is defined in that section or in 34 CFR Parts 74, 76, or 80.)

(Authority: 29 U.S.C. 711(c) and 732)

§ 370.6 What definitions apply?

(a) *Definitions in EDGAR.* The following terms used in this part are defined in 34 CFR 77.1:

Award
EDGAR
Fiscal year
Nonprofit
Private
Public
Secretary

(b) *Other definitions.* The following definitions also apply to this part:

Act means the Rehabilitation Act of 1973, as amended.

Advocacy means pleading an individual's cause or speaking or writing in support of an individual. Advocacy may be formal, as in the case of a lawyer representing an individual in a court of law or in formal administrative proceedings before government agencies (whether State, local or Federal). Advocacy also may be informal, as in the case of a lawyer or non-lawyer representing an individual in negotiations, mediation, or informal administrative proceedings before government agencies (whether State, local or Federal), or as in the case of a lawyer or non-lawyer representing an individual's cause before private entities or organizations, or government agencies (whether State, local or Federal). Advocacy may be on behalf of—

(1) A single individual, in which case it is *individual advocacy;*

(2) More than one individual or a group or class of individuals, in which case it is *systems* (or *systemic*) *advocacy;* or

(3) Oneself, in which case it is *self advocacy*.

Class action means a formal legal suit on behalf of a group or class of individuals filed in a Federal or State court that meets the requirements for a ''class action'' under Federal or State law. ''Systems (or systemic) advocacy'' that does not include filing a formal class action in a Federal or State court is not considered a class action for purposes of this part.

Client or client applicant means an individual receiving or seeking services under the Act, respectively.

Designated agency means the agency designated by the Governor under § 370.2 to conduct a client assistance program under this part.

Mediation means the act or process of using an independent third party to act as a mediator, intermediary, or conciliator to settle differences or disputes between persons or parties. The third party who acts as a mediator, intermediary, or conciliator may not be any entity or individual who is connected in any way with the eligible system or the agency, entity, or individual with whom the individual with a disability has a dispute. Mediation may involve the use of professional mediators or any other independent third party mutually agreed to by the parties to the dispute.

Services under the Act means vocational rehabilitation, independent living, supported employment, and other similar rehabilitation services provided under the Act. For purposes of the CAP, the term ''services under the Act'' does not include activities carried out under the protection and advocacy program authorized by section 509 of the Act (i.e., the Protection and Advocacy of Individual Rights (PAIR) program, 34 CFR Part 381).

State means, in addition to each of the several States of the United States, the District of Columbia, the Commonwealth of Puerto Rico, The United States Virgin Islands, Guam, American Samoa, the Commonwealth of the Northern Mariana Islands, and the Republic of Palau (but only until September 30, 1998), except for purposes of the allotments under section 112 of the Act, in which case ''State'' does not mean or include Guam, American Samoa, the United States Virgin Islands, the Commonwealth of the Northern Mariana Islands, and the Republic of Palau.

(Authority: 29 U.S.C. 711(c) and 732; P.L. 101–219 (Dec. 12, 1989); P.L. 99–658 (Nov. 14, 1986); and P.L. 99–239 (Jan. 14, 1986))

§ 370.7 What shall the designated agency do to make its services accessible?

The designated agency shall provide, as appropriate, the CAP services described in § 370.4 in formats that are accessible to clients or client applicants who seek or receive CAP services.

(Authority: 29 U.S.C. 711(c))

Subpart B—What Requirements Apply to Redesignation?

§ 370.10 When do the requirements for redesignation apply?

(a) The Governor may not redesignate the agency designated pursuant to section 112(c) of the Act and § 370.2(b) without good cause and without complying with the requirements of §§ 370.10 through 370.17.

(b) For purposes of §§ 370.10 through 370.17, a ''redesignation of'' or ''to redesignate'' a designated agency means any change in or transfer of the designation of an agency previously designated by the Governor to conduct the State's CAP to a new or different agency, unit, or organization, including—

(1) A decision by a designated agency to cancel its existing contract with another entity with which it has previously contracted to carry out and operate all or part of its responsibilities under the CAP (including providing advisory, assistance, or advocacy services to eligible clients and client applicants); or

(2) A decision by a designated agency not to renew its existing contract with another entity with which it has previously contracted. Therefore, an agency that is carrying out a State's CAP under a contract with a designated agency is considered a designated agency for purposes of §§ 370.10 through 370.17.

(c) For purposes of paragraph (a) of this section, a designated agency that does not renew a contract for CAP services because it is following State procurement laws that require contracts to be awarded through a competitive bidding process is presumed to have good cause for not renewing an existing contract. However, this presumption may be rebutted.

(d) If State procurement laws require a designated agency to award a contract through a competitive bidding process, the designated agency must hold public hearings on the request for proposal before awarding the new contract.

(Authority: 29 U.S.C. 711(c) and 732(c)(1)(B))

§ 370.11 What requirements apply to a notice of proposed redesignation?

(a) Prior to any redesignation of the agency that conducts the CAP, the Governor shall give written notice of the proposed redesignation to the designated agency, the State Rehabilitation Advisory Council (SRAC), and the State Independent Living Council (SILC) and publish a public notice of the Governor's intention to redesignate. Both the notice to the designated agency, the SRAC, and the SILC and the public notice must include, at a minimum, the following:

(1) The Federal requirements for the CAP (section 112 of the Act).

(2) The goals and function of the CAP.

(3) The name of the current designated agency.

(4) A description of the current CAP and how it is administered.

(5) The reason or reasons for proposing the redesignation, including why the Governor believes good cause exists for the proposed redesignation.

(6) The effective date of the proposed redesignation.

(7) The name of the agency the Governor proposes to administer the CAP.

(8) A description of the system that the redesignated (i.e., new) agency would administer.

(b) The notice to the designated agency must—

(1) Be given at least 30 days in advance of the Governor's written decision to redesignate; and

(2) Advise the designated agency that it has at least 30 days from receipt of the notice of proposed redesignation to respond to the Governor and that the response must be in writing.

(c) The notice of proposed redesignation must be published in a place and manner that provides the SRAC, the SILC, individuals with disabilities or their representatives, and the public with at least 30 days to submit oral or written comments to the Governor.

(d) Following public notice, public hearings concerning the proposed redesignation must be conducted in an accessible format that provides individuals with disabilities or their representatives an opportunity for comment. The Governor shall maintain a written public record of these hearings.

(e) The Governor shall fully consider any public comments before issuing a written decision to redesignate.

(Approved by the Office of Management and Budget under control number 1820–0520)

(Authority: 29 U.S.C. 711(c) and 732(c)(1)(B))

§ 370.12 How does a designated agency preserve its right to appeal a redesignation?

(a) To preserve its right to appeal a Governor's written decision to redesignate (see § 370.13), a designated agency must respond in writing to the Governor within 30 days after it receives the Governor's notice of proposed redesignation.

(b) The designated agency shall send its response to the Governor by registered or certified mail, return receipt requested, or other means that provides a record that the Governor received the designated agency's response.

(Approved by the Office of Management and Budget under control number 1820–0520)

(Authority: 29 U.S.C. 711(c) and 732(c)(1)(B))

§ 370.13 What are the requirements for a decision to redesignate?

(a) If, after complying with the requirements of § 370.11, the Governor decides to redesignate the designated agency, the Governor shall provide to the designated agency a written decision to redesignate that includes the rationale for the redesignation. The Governor shall send the written decision to redesignate to the designated agency by registered or certified mail, return receipt requested, or other means that provides a record that the designated agency received the Governor's written decision to redesignate.

(b) If the designated agency submitted to the Governor a timely response to the Governor's notice of proposed redesignation, the Governor shall inform the designated agency that it has at least 15 days from receipt of the Governor's written decision to redesignate to file a formal written appeal with the Secretary.

(Approved by the Office of Management and Budget under control number 1820–0520)

(Authority: 29 U.S.C. 711(c) and 732(c)(1)(A))

§ 370.14 How does a designated agency appeal a written decision to redesignate?

(a) A designated agency may appeal to the Secretary a Governor's written decision to redesignate only if the designated agency submitted to the Governor a timely written response to the Governor's notice of proposed redesignation in accordance with § 370.12.

(b) To appeal to the Secretary a Governor's written decision to redesignate, a designated agency shall file a formal written appeal with the Secretary within 15 days after the designated agency's receipt of the Governor's written decision to redesignate. The date of filing of the

designated agency's written appeal with the Secretary will be determined in a manner consistent with the requirements of 34 CFR 81.12.

(c) If the designated agency files a written appeal with the Secretary, the designated agency shall send a separate copy of this appeal to the Governor by registered or certified mail, return receipt requested, or other means that provides a record that the Governor received a copy of the designated agency's appeal to the Secretary.

(d) The designated agency's written appeal to the Secretary must state why the Governor has not met the burden of showing that good cause for the redesignation exists or has not met the procedural requirements under §§ 370.11 and 370.13.

(e) The designated agency's written appeal must be accompanied by the designated agency's written response to the Governor's notice of proposed redesignation and may be accompanied by any other written submissions or documentation the designated agency wishes the Secretary to consider.

(f) As part of its submissions under this section, the designated agency may request an informal meeting with the Secretary at which representatives of both parties will have an opportunity to present their views on the issues raised in the appeal.

(Approved by the Office of Management and Budget under control number 1820–0520)

(Authority: 29 U.S.C. 711(c) and 732(c)(1)(B))

§ 370.15 What must the Governor of a State do upon receipt of a copy of a designated agency's written appeal to the Secretary?

(a) If the designated agency files a formal written appeal in accordance with § 370.14, the Governor shall, within 15 days of receipt of the designated agency's appeal, submit to the Secretary copies of the following:

(1) The written notice of proposed redesignation sent to the designated agency.

(2) The public notice of proposed redesignation.

(3) Transcripts of all public hearings held on the proposed redesignation.

(4) Written comments received by the Governor in response to the public notice of proposed redesignation.

(5) The Governor's written decision to redesignate, including the rationale for the decision.

(6) Any other written documentation or submissions the Governor wishes the Secretary to consider.

(7) Any other information requested by the Secretary.

(b) As part of the submissions under this section, the Governor may request an informal meeting with the Secretary at which representatives of both parties will have an opportunity to present their views on the issues raised in the appeal.

(Approved by the Office of Management and Budget under control number 1820–0520)

(Authority: 29 U.S.C. 711(c) and 732(c)(1)(B))

§ 370.16 How does the Secretary review an appeal of a redesignation?

(a) If either party requests a meeting under § 370.14(f) or § 370.15(b), the meeting is to be held within 30 days of the submissions by the Governor under § 370.15, unless both parties agree to waive this requirement. The Secretary promptly notifies the parties of the date and place of the meeting.

(b) Within 30 days of the informal meeting permitted under paragraph (a) of this section or, if neither party has requested an informal meeting, within 60 days of the submissions required from the Governor under § 370.15, the Secretary issues to the parties a final written decision on whether the redesignation was for good cause.

(c) The Secretary reviews a Governor's decision based on the record submitted under §§ 370.14 and 370.15 and any other relevant submissions of other interested parties. The Secretary may affirm or, if the Secretary finds that the redesignation is not for good cause, remand for further findings or reverse a Governor's redesignation.

(d) The Secretary sends copies of the decision to the parties by registered or certified mail, return receipt requested, or other means that provide a record of receipt by both parties.

(Approved by the Office of Management and Budget under control number 1820–0520)

(Authority: 29 U.S.C. 711(c) and 732(c)(1)(B))

§ 370.17 When does a redesignation become effective?

A redesignation does not take effect for at least 15 days following the designated agency's receipt of the Governor's written decision to redesignate or, if the designated agency appeals, for at least 5 days after the Secretary has affirmed the Governor's written decision to redesignate.

(Authority: 29 U.S.C. 711(c) and 732(c)(1)(B))

Subpart C—How Does a State Apply for a Grant?

§ 370.20 What must be included in a request for a grant?

(a) Each State seeking assistance under this part shall submit to the Secretary, in writing, each fiscal year, an application that includes, at a minimum—

(1) The name of the designated agency; and

(2) An assurance that the designated agency meets the independence requirement of section 112(c)(1)(A) of the Act and § 370.2(c), or that the State is exempted from that requirement under section 112(c)(1)(A) of the Act and § 370.2(d).

(b)(1) Each State also shall submit to the Secretary an assurance that the designated agency has the authority to pursue legal, administrative, and other appropriate remedies to ensure the protection of the rights of clients or client applicants within the State.

(2) The authority to pursue remedies described in paragraph (b)(1) of this section must include the authority to pursue those remedies against the State vocational rehabilitation agency and other appropriate State agencies. The designated agency meets this requirement if it has the authority to pursue those remedies either on its own behalf or by obtaining necessary services, such as legal representation, from outside sources.

(c) Each State also shall submit to the Secretary assurances that—

(1) All entities conducting, administering, operating, or carrying out programs within the State that provide services under the Act to individuals with disabilities in the State will advise all clients and client applicants of the existence of the CAP, the services provided under the program, and how to contact the designated agency;

(2) The designated agency will meet each of the requirements in this part; and

(3) The designated agency will provide the Secretary with the annual report required by section 112(g)(4) of the Act and § 370.44.

(d) To allow a designated agency to receive direct payment of funds under this part, a State must provide to the Secretary, as part of its application for assistance, an assurance that direct payment to the designated agency is not prohibited by or inconsistent with State law, regulation, or policy.

(Approved by the Office of Management and Budget under control number 1820–0520)

(Authority: 29 U.S.C. 732 (b) and (f))

Subpart D—How Does the Secretary Allocate and Reallocate Funds to a State?

§ 370.30 How does the Secretary allocate funds?

(a) The Secretary allocates the funds available under this part for any fiscal year to the States on the basis of the relative population of each State. The Secretary allocates at least $50,000 to each State, unless the provisions of section 112(e)(1)(D) of the Act (which

provides for increasing the minimum allotment if the appropriation for the CAP exceeds $7,500,000 or the appropriation is increased by a certain percentage described in section 112(e)(1)(D)(ii) of the Act) are applicable.

(b) The Secretary allocates $30,000 each, unless the provisions of section 112(e)(1)(D) of the Act are applicable, to American Samoa, Guam, the Virgin Islands, the Northern Mariana Islands, and the Republic of Palau, except that the Secretary allocates to the Republic of Palau only 75 percent of this allotment in fiscal year 1996, only 50 percent of this allotment in fiscal year 1997, only 25 percent of this allotment in fiscal year 1998, and none of this allotment in fiscal year 1999 and thereafter.

(c) Unless prohibited or otherwise provided by State law, regulation, or policy, the Secretary pays to the designated agency, from the State allotment under paragraph (a) or (b) of this section, the amount specified in the State's approved request. Because the designated agency is the eventual, if not the direct, recipient of the CAP funds, 34 CFR Parts 74 and 81 apply to the designated agency, whether or not the designated agency is the actual recipient of the CAP grant. However, because it is the State that submits an application for and receives the CAP grant, the State remains the grantee for purposes of 34 CFR Parts 76 and 80. In addition, both the State and the designated agency are considered recipients for purposes of 34 CFR Part 81.

(Authority: 29 U.S.C. 732 (b) and (e); P.L. 101–219 (Dec. 12, 1989); P.L. 99–658 (Nov. 14, 1986); and P.L. 99–239 (Jan. 14, 1986))

§ 370.31 How does the Secretary reallocate funds?

(a) The Secretary reallocates funds in accordance with section 112(e)(2) of the Act.

(b) A designated agency shall inform the Secretary at least 90 days before the end of the fiscal year for which CAP funds were received whether the designated agency is making available for reallotment any of those CAP funds that it will be unable to obligate in that fiscal year.

(Approved by the Office of Management and Budget under control number 1820–0520)

(Authority: 29 U.S.C. 711(c) and 732(e)(2))

Subpart E—What Post-Award Conditions Must Be Met by a Designated Agency?

§ 370.40 What are allowable costs?

(a) If the designated agency is a State or local government agency, the designated agency shall apply the cost principles in accordance with 34 CFR 80.22(b).

(b) If the designated agency is a private nonprofit organization, the designated agency shall apply the cost principles in accordance with Subpart Q of 34 CFR Part 74.

(c) In addition to those allowable costs established in EDGAR, and consistent with the program activities listed in § 370.4, the cost of travel in connection with the provision to a client or client applicant of assistance under this program is allowable. The cost of travel includes the cost of travel for an attendant if the attendant must accompany the client or client applicant.

(d) The State and the designated agency are accountable, both jointly and severally, to the Secretary for the proper use of funds made available under this part. However, the Secretary may choose to recover funds under the procedures in 34 CFR Part 81 from either the State or the designated agency, or both, depending on the circumstances of each case.

(Authority: 29 U.S.C. 711(c) and 732(c)(3))

§ 370.41 What conflict of interest provision applies to employees of a designated agency?

(a) Except as permitted by paragraph (b) of this section, an employee of a designated agency, of a center under contract with a designated agency (as permitted by § 370.2(f)), or of an entity or individual under contract with a designated agency, who carries out any CAP duties or responsibilities, while so employed, may not—

(1) Serve concurrently as a staff member of, consultant to, or in any other capacity within, any other rehabilitation project, program, or community rehabilitation program receiving assistance under the Act in the State; or

(2) Provide any services under the Act, other than CAP and PAIR services.

(b) An employee of a designated agency or of a center under contract with a designated agency, as permitted by § 370.2(f), may—

(1) Receive a traineeship under section 302 of the Act;

(2) Provide services under the PAIR program;

(3) Represent the CAP on any board or council (such as the SRAC) if CAP representation on the board or council is specifically permitted or mandated by the Act; and

(4) Consult with policymaking and administrative personnel in State and local rehabilitation programs, projects, and community rehabilitation programs, if consultation with the designated agency is specifically permitted or mandated by the Act.

(Authority: 29 U.S.C. 732(g)(1))

§ 370.42 What access must the CAP be afforded to policymaking and administrative personnel?

The CAP must be afforded reasonable access to policymaking and administrative personnel in State and local rehabilitation programs, projects, and community rehabilitation programs. One way in which the CAP may be provided that access would be to include the director of the designated agency among the individuals to be consulted on matters of general policy development and implementation, as required by sections 101(a) (18) and (23) of the Act.

(Authority: 29 U.S.C. 721(a) (18) and (23) and 732(g)(2))

§ 370.43 What requirement applies to the use of mediation procedures?

(a) Each designated agency shall implement procedures designed to ensure that, to the maximum extent possible, good faith negotiations and mediation procedures are used before resorting to formal administrative or legal remedies. In designing these procedures, the designated agency may take into account its level of resources.

(b) For purposes of this section, mediation may involve the use of professional mediators, other independent third parties mutually agreed to by the parties to the dispute, or an employee of the designated agency who—

(1) Is not assigned to advocate for or otherwise represent or is not involved with advocating for or otherwise representing the client or client applicant who is a party to the mediation; and

(2) Has not previously advocated for or otherwise represented or been involved with advocating for or otherwise representing that same client or client applicant.

(Authority: 29 U.S.C. 732(g)(3))

§ 370.44 What reporting requirement applies to each designated agency?

In addition to the program and fiscal reporting requirements in EDGAR that are applicable to this program, each designated agency shall submit to the Secretary, no later than 90 days after the end of each fiscal year, an annual report on the operation of its CAP during the previous year, including a summary of the work done and the uniform statistical tabulation of all cases handled by the program. The annual report must contain information on—

(a) The number of requests received by the designated agency for information on services and benefits under the Act and Title I of the ADA;

(b) The number of referrals to other agencies made by the designated agency and the reason or reasons for those referrals;

(c) The number of requests for advocacy services received by the designated agency from clients or client applicants;

(d) The number of the requests for advocacy services from clients or client applicants that the designated agency was unable to serve;

(e) The reasons that the designated agency was unable to serve all of the requests for advocacy services from clients or client applicants; and

(f) Any other information that the Secretary may require.

(Approved by the Office of Management and Budget under control number 1820–0520)

(Authority: 29 U.S.C. 732(g) (4) and (5))

§ 370.45 What limitation applies to the pursuit of legal remedies?

A designated agency may not bring any class action in carrying out its responsibilities under this part.

(Authority: 29 U.S.C. 732(d))

§ 370.46 What consultation requirement applies to a Governor of a State?

In designating a client assistance agency under § 370.2, redesignating a client assistance agency under § 370.10(a), and carrying out the other provisions of this part, the Governor shall consult with the director of the State vocational rehabilitation agency (or, in States with both a general agency and an agency for the blind, the directors of both agencies), the head of the developmental disability protection and advocacy agency, and representatives of professional and consumer organizations serving individuals with disabilities in the State.

(Authority: 29 U.S.C. 732(c)(2))

§ 370.47 When must grant funds be obligated?

(a) Any funds appropriated for a fiscal year to carry out the CAP that are not expended or obligated by the designated agency prior to the beginning of the succeeding fiscal year remain available for obligation by the designated agency during the succeeding fiscal year in accordance with 34 CFR 76.705 through 76.707.

(b) A designated agency shall inform the Secretary within 90 days after the end of the fiscal year for which the CAP funds were made available whether the designated agency carried over to the succeeding fiscal year any CAP funds that it was unable to obligate by the end of the fiscal year.

(Approved by the Office of Management and Budget under control number 1820–0520)

(Authority: 29 U.S.C. 718)

§ 370.48 What are the special requirements pertaining to the protection, use, and release of personal information?

(a) All personal information about individuals served by any designated agency under this part, including lists of names, addresses, photographs, and records of evaluation, must be held strictly confidential.

(b) The designated agency's use of information and records concerning individuals must be limited only to purposes directly connected with the CAP, including program evaluation activities. Except as provided in paragraphs (c) and (e) of this section, this information may not be disclosed, directly or indirectly, other than in the administration of the CAP, unless the consent of the individual to whom the information applies, or his or her parent, legal guardian, or other legally authorized representative or advocate (including the individual's advocate from the designated agency), has been obtained in writing. A designated agency may not produce any report, evaluation, or study that reveals any personally identifying information without the written consent of the individual or his or her representative.

(c) Except as limited in paragraphs (d) and (e) of this section, the Secretary or other Federal or State officials responsible for enforcing legal requirements are to have complete access to all—

(1) Records of the designated agency that receives funds under this program; and

(2) All individual case records of clients served under this part without the consent of the client.

(d) For purposes of conducting any periodic audit, preparing or producing any report, or conducting any evaluation of the performance of the CAP established or assisted under this part, the Secretary does not require the designated agency to disclose the identity of, or any other personally identifiable information related to, any individual requesting assistance under the CAP.

(e) Notwithstanding paragraph (d) of this section and consistent with paragraph (f) of this section, a designated agency shall disclose to the Secretary, if the Secretary so requests, the identity of, or any other personally identifiable information (i.e., name, address, telephone number, social security number, or any other official code or number by which an individual may be readily identified) related to, any individual requesting assistance under the CAP if—

(1) An audit, evaluation, monitoring review, State plan assurance review, or other investigation produces reliable evidence that there is probable cause to believe that the designated agency has violated its legislative mandate or misused Federal funds; or

(2) The Secretary determines that this information may reasonably lead to further evidence that is directly related to alleged misconduct of the designated agency.

(f) In addition to the protection afforded by paragraph (d) of this section, the right of a person or designated agency not to produce documents or disclose information to the Secretary is governed by the common law of privileges, as interpreted by the courts of the United States.

(Authority: 29 U.S.C. 711(c) and 732(g)(6))

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Part III

Department of Transportation

Federal Aviation Administration

14 CFR Part 29

Airworthiness Standards; Rotocraft Engine Rotor Burst Protection; Final Rule

DEPARTMENT OF TRANSPORTATION

Federal Aviation Administration

14 CFR Part 29

[Docket No. 26037; Amendment No. 29–36]

RIN 2120–AB91

Airworthiness Standards: Rotorcraft Engine Rotor Burst Protection

AGENCY: Federal Aviation Administration, DOT.

ACTION: Final rule.

SUMMARY: This final rule amends the airworthiness regulations to require that manufacturers of new design transport category rotorcraft minimize the adverse effects of a turbine engine rotor failure. Turbine engine rotor failures have occurred resulting in the release of high energy engine rotor fragments or other engine component fragments. These fragments have damaged critical rotorcraft structures, systems, controls, and adjacent engines, as well as caused serious or fatal injuries to passengers and crewmembers. This action is intended to minimize these hazards.

EFFECTIVE DATE: January 31, 1996.

FOR FURTHER INFORMATION CONTACT: Mr. Ron Dalton, Federal Aviation Administration (FAA), Rotorcraft Directorate, Rotorcraft Standards Staff, Fort Worth, TX 76193–0110, telephone (817) 222–5127.

SUPPLEMENTARY INFORMATION:

Background

A Notice of Proposed Rulemaking (NPRM) No. 89–29 was published in the Federal Register on October 17, 1989 (54 FR 42716), and the comment period was reopened by NPRM No. 89–29A, published in the Federal Register on January 14, 1993 (58 FR 4566). These NPRMs proposed to amend 14 CFR part 29 (part 29) to require designs that would minimize the hazards associated with the failures of turbine engine (engine) rotors in newly designed transport category rotorcraft. Since there has not been an adverse service history for normal category rotorcraft, similar changes to 14 CFR part 27 were not proposed. If an adverse service history for normal category rotorcraft should develop, similar changes to 14 CFR part 27 would be considered.

National Transportation Safety Board (NTSB) Recommendation

This amendment responds to NTSB Safety Recommendation A–84–60 dated June 14, 1984. The NTSB recommends that the FAA review engine compartment design of all U.S. type certificated ''multiengined helicopters with regard to the probability that an uncontained engine failure will result in catastrophic damage to the drive train, electrical, and/or fuel and hydraulic system components.'' This rule responds directly to the recommendation.

Provisions of NPRM Nos. 89–29 and 89–29A

NPRM No. 89–29 proposed changes to 14 CFR 29.901 and 29.903 (§§ 29.901 and 29.903) to increase the safety margin by requiring designs that minimize the hazards to transport category rotorcraft in the event of an engine rotor failure. The required designs may include items such as separation or duplication of critical components, engine location to reduce risk, or placement of critical components in benign locations. Containment provisions for one or more stages of the engine were not specifically proposed by that proposal; however, as stated in Notice No. 89–29A, containment provisions could be one of several effective means of compliance.

NPRM No. 89–29A reopened the comment period and invited comments only on the issues of engine rotor containment and the use of advanced composite material. NPRM No. 89–29A also provided further clarification of the intent of the NPRM. Specifically, the FAA clarified that when evaluating an applicant's proposed method of compliance, the FAA would consider the available technology and the costs required to minimize the hazards from an engine rotor failure. The FAA also noted that engine rotor containment features have not been specifically required in airplane designs that comply with 14 CFR 23.903 and 25.903 (§§ 23.903 and 25.903). Likewise, containment features would not be specifically required in rotorcraft to minimize the hazards of an engine rotor failure. The guidance contained in Advisory Circular (AC) 20–128, ''Design Considerations for Minimizing Hazards Caused by Uncontained Turbine Engine and Auxiliary Power Unit Rotor and Fan Blade Failures,'' is applicable to the requirements of § 29.903 in the same way it now applies to §§ 23.903 and 25.903 for airplanes. Furthermore, the guidance in AC–29–2A, ''Certification of Transport Category Rotorcraft,'' supplements that in AC 20–128.

Comments to NPRM Nos. 89–29 and 89–29A

Three commenters fully supported the proposals of NPRM No. 89–29. Three other commenters, including the Aerospace Industries Association (AIA), requested that the NPRM be withdrawn because they believed it strongly implied that the intent of the proposed rule was to require the designer to eliminate the hazards associated with the failure of an engine rotor through the use of containment devices made of advanced composite material. As discussed above, it was not the intent of NPRM No. 89–29 to require containment or the use of advanced composite materials; containment devices made of composite materials could be one means of compliance. Since this was unclear to the three commenters, several meetings with representatives of AIA were held. Subsequently, the FAA issued NPRM No. 89–29A, which reopened the comment period with a further explanation of the proposed amendments.

Two comments were received in response to NPRM No. 89–29A. Neither commenter addressed the issues of engine rotor containment or the use of advanced composite material. As stated earlier in this document, request for comments on these issues was the reason for reopening the comment period for NPRM No. 89–29A.

One commenter simply restated an opinion submitted in response to NPRM No. 89–29 that minimizing hazards resulting from engine rotor failures in helicopters is impractical. The other commenter disagreed with the proposed wording of § 29.903. The commenter observed that the wording, ''Design procedures must be taken to minimize the hazards to the rotorcraft in the event of an engine rotor failure * * *,'' has been applied to fixed wing aircraft for some time with little or no success. The FAA disagrees that minimizing the hazards of engine rotor failure is impractical or that compliance with similar requirements for airplanes has not been successful. Based on a review of rotorcraft service history and engineering studies, the FAA concludes that the need for this amendment has been adequately demonstrated and shown to be practical for rotorcraft.

The proposed change to § 29.903 was inadvertently stated as revising paragraph (f). The correct cite should have been to paragraph § 29.903(d). This error is corrected in this final rule. The FAA adopts the changes to §§ 29.901 and 29.903 as proposed, except for the noted paragraph correction.

Regulatory Evaluation Summary

Proposed changes to Federal regulations must undergo several economic analyses. First, Executive Order 12866 directs that each Federal

agency shall propose or adopt a regulation only upon a reasoned determination that the benefit of the intended regulation justify its costs. Second, the Regulatory Flexibility Act of 1980 requires agencies to analyze the economic effect of regulatory changes on small entities. Third, the Office of Management and Budget directs agencies to assess the effects of regulatory changes on international trade. In conducting these analyses, the FAA has determined that this rule: (1) Will generate benefits that justify its costs and is not a ''significant regulatory action'' as defined in the Executive Order; (2) is not significant as defined in DOT's Regulatory Policies and Procedures; (3) will not have a significant impact on a substantial number of small entities; and (4) will not constitute a barrier to international trade. These analyses, available in the docket, are summarized below.

Costs

On the basis of estimates from FAA and industry, incremental development and certification costs are estimated to be $33,600 per type certification project. Incremental manufacturing costs are estimated to be $560 for each single-engine rotorcraft and $1,120 for each twin-engine rotorcraft.

In addition to increasing the acquisition costs of newly certificated rotorcraft, the rule could result in weight penalties. FAA and industry analyses suggest that this weight penalty could be as much as 6 pounds per engine. Each additional pound of weight increases fuel consumption for an average part 29 rotorcraft by approximately 0.0597 gallons per flight hour. Assuming 527 flight hours per year for an average part 29 rotocraft, compliance with the rule will increase annual fuel consumption by about 31.46 gallons per pound of additional weight. Using a forecast jet fuel price of $1.78 per gallon, annual fuel costs could rise by about $56 per additional pound, or about $366 per single engine transport rotorcraft, or $672 per twin-engine transport rotorcraft, respectively, per year.

Assuming a production run of 15 years during which 10 aircraft are produced per year and assuming that each rotorcraft has an operating life of 15 years, the average costs of compliance are $5,824 for a single-engine rotorcraft and $11,425 for a twin-engine rotorcraft. Applying a discount rate of 7 percent, the average costs of compliance for single-engine and twin-engine rotorcraft are $2,271 and $4,326, respectively, at present value.

Benefits of Prevented Rotorcraft Damage and Loss

The assessment of the hazards of uncontained turboshaft engine rotor bursts is based on data from the FAA, the Society of Automotive Engineers (SAE), and the National Transportation Safety Board (NTSB). For the period 1984 through 1989, in a sample representing 35.4 million flight hours and 44.3 million hours of engine operation, the FAA/SAE Committee on Uncontained Turbine Engine Rotor Events identified 68 engine rotor separation events, which resulted in the escape of rotor fragments through the engine casing or the inlet structure. Thirty-eight of those 68 events culminated in damage to rotorcraft structure or systems (other than the engine itself) or injuries to occupants. Of these, 17 events involved the release of turbine disk or spacer fragments which directly resulted in substantial damage to or loss of the aircraft. In the remaining 21 cases, damage and/or injuries were not directly attributed to the uncontained failure, but were ascribed to other causes. These 21 cases are excluded from the benefit calculations.

Assuming 527 annual airborne hours for an average part 29 rotorcraft, FAA estimates the annual average probabilities that a transport rotorcraft will be substantially damaged or destroyed as a direct result of an uncontained turbine rotor burst are 0.00012 and 0.00066 for single- and twin-engine rotorcraft respectively.

The benefits of prevented rotorcraft damage and loss are the avoided replacement and repair costs that would otherwise be incurred in the absence of compliance with this rule. In this analysis, average new unit costs of single- and twin-engine part 29 rotorcraft are estimated to be $3.200 million and $4.275 million respectively. Replacement cost is assumed to equal one-half the original new list price, and restoration cost is estimated to be 13 percent of replacement cost. The expected annual per-aircraft benefit of prevented rotorcraft damage and loss is the weighted sum of replacement and restoration costs where the weights are determined by the respective probabilities of aircraft damage or loss. The FAA/SAE data included 2 single-engine rotorcraft destroyed, and 4 single-engine rotorcraft damaged, in 26.6 million flight hours; it also included 4 twin-engine rotorcraft destroyed, and 7 twin-engine rotorcraft damaged, in 8.8 million flight hours. The FAA concludes that the annual average benefits of prevented rotorcraft damage are about $80 for single-engine rotorcraft and $628 for twin-engine rotorcraft.

Under the same production run, operating life, and discount rate assumptions used to derive average costs, the FAA estimates the expected benefits of prevented aircraft damage/loss are $1,197 per single-engine rotorcraft and $9,413 per twin-engine rotorcraft, or $412 and $3,243 at present value, respectively.

Benefits of Prevented Injuries and Fatalities

Using data from the FAA and the NTSB, the FAA identified five fatalities and eight injuries resulting from the uncontained events documented by the FAA/SAE Committee. Two of the fatalities occurred as the result of a failed autorotation landing involving a single-engine category B rotorcraft. In this case, the rotor burst did not directly cause the failed landing and, therefore, the fatalities were excluded from this analysis. The remaining three fatalities and three of the injuries occurred in twin-engine rotorcraft. Five of the injuries occurred in single-engine rotorcraft. Based on the available casualty history, the FAA concludes that in 8.8 million twin-engine part 29 rotorcraft flight hours, the rule could prevent 3 fatalities, 1 serious injury, and 2 minor injuries. The FAA also concludes that in 26.6 million single-engine part 29 rotorcraft flight hours, the rule could prevent 2 serious injuries and 3 minor injuries.

Assuming 527 annual flight hours for a typical part 29 rotorcraft, and based on costs of $2.5 million, $640,000 and $5,000 per each fatality, serious injury, and minor injury, respectively, the average annual benefits derived from avoiding fatalities and injuries are about $488 per twin-engine transport rotorcraft and $26 per single-engine rotorcraft.

Using the production run, operating life, discount rate, and other assumptions listed above, the FAA estimates that the benefits of avoided injuries and fatalities are $385 per single-engine rotorcraft, and $7,321 per twin-engine rotorcraft, or $133 and $2,523 at present value, respectively.

Cost-Benefit Summary

With respect to twin-engine rotorcraft, the benefits of avoided aircraft damage and avoided fatalities and injuries are expected to exceed the estimated development, certification, manufacturing and operating costs of the rule by a margin of roughly 1.3 to 1 ($5,766 to $4,326 in present value terms).

The benefits for single-engine rotorcraft, however, are less clear. Because part 29 rotorcraft type-certificate applications for single engine rotorcraft are unlikely, FAA's economic analysis of single-engine types concludes that the rule will be cost-beneficial only if design and manufacturing costs are modest. It should be noted that the analysis of the benefits of prevented injuries and fatalities, summarized above, does not assume that a fatality from operation of a single-engine part 29 rotorcraft would be prevented; therefore, the prevention of one fatality that would have occurred but for compliance with this rule, would make benefits clearly exceed costs.

International Trade Impact Statement

The rule will have little or no effect on trade for either U.S. firms marketing rotorcraft in foreign markets or foreign firms marketing rotorcraft in the U.S. Each applicant for a new type certificate for a transport category rotorcraft, whether the applicant be U.S. or foreign, will be required to show compliance with this rule. The rule harmonizes with proposed European Joint Aviation Requirements.

Regulatory Flexibility Determination

The Regulatory Flexibility Act (RFA) of 1980 was enacted by Congress to ensure that small entities are not unnecessarily or disproportionately burdened by Government regulations. The RFA requires a Regulatory Flexibility Analysis if a rule is expected to have a ''significant economic impact on a substantial number of small entities.''

Based on the standards and thresholds specified in implementing FAA Order 2100.14A, Regulatory Flexibility Criteria and Guidance, the FAA has determined that the rule will not have a significant impact on a substantial number of small entities, because there are no ''small entity'' rotorcraft manufacturers, as defined in the order.

Federalism Implications

The regulations herein will not have substantial direct effects on the States, on the relationship between the national government and the States, or on the distribution of power and responsibilities among the various levels of government. Therefore, in accordance with Executive Order 12612, it is determined that this regulation will not have sufficient federalism implications to warrant the preparation of a Federalism Assessment.

Conclusion

For the reasons discussed above, and based on the findings in the Regulatory Flexibility Determination and the International Trade Impact Analysis, the FAA has determined that this regulation is not a significant regulatory action under Executive Order 12866. In addition, the FAA certifies that this regulation will not have a significant economic impact, positive or negative, on a substantial number of small entities under the criteria of the RFA. This regulation is not considered to be significant under DOT Order Regulatory Policies and Procedures (44 FR 11034; February 26, 1979). A final regulatory evaluation of the regulation, including a final Regulatory Flexibility Determination and International Trade Impact Analysis, has been placed in the docket. A copy may be obtained by contacting the person identified under **FOR FURTHER INFORMATION CONTACT.**

List of Subjects in 14 CFR Part 29

Air transportation, Aircraft, Aviation safety, Rotorcraft, Safety.

The Amendment

Accordingly, the FAA amends part 29 of the Federal Aviation Regulations (14 CFR part 29) as follows:

PART 29—AIRWORTHINESS STANDARDS: TRANSPORT CATEGORY ROTORCRAFT

1. The authority citation for part 29 is revised to read as follows:

Authority: 49 U.S.C. 106(g), 40113, 44701, 44702, 44704.

2. Section 29.901 is amended by revising paragraph (c) to read as follows:

§ 29.901 Installation.

* * * * *

(c) For each powerplant and auxiliary power unit installation, it must be established that no single failure or malfunction or probable combination of failures will jeopardize the safe operation of the rotorcraft except that the failure of structural elements need not be considered if the probability of any such failure is extremely remote.

* * * * *

3. Section 29.903 is amended by revising paragraph (d) to read as follows:

§ 29.903 Engines.

* * * * *

(d) *Turbine engine installation.* For turbine engine installations—

(1) Design precautions must be taken to minimize the hazards to the rotorcraft in the event of an engine rotor failure; and

(2) The powerplant systems associated with engine control devices, systems, and instrumentation must be designed to give reasonable assurance that those engine operating limitations that adversely affect engine rotor structural integrity will not be exceeded in service.

* * * * *

Issued in Washington, DC, on October 6, 1995.

David R. Hinson,

Administrator.

[FR Doc. 95–27225 Filed 11–1–95; 8:45 am]

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S. 1254/P.L. 104–38

To disapprove of amendments to the Federal Sentencing Guidelines relating to lowering of crack sentences and sentences for money laundering and transactions in property derived from unlawful activity. (Oct. 30, 1995; 109 Stat. 334)

Last List October 25, 1995